



# IOWA ADMINISTRATIVE BULLETIN

*Published Biweekly*

VOLUME XXXVI  
July 10, 2013

NUMBER 1  
Pages 1 to 48

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike-through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

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## CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2013

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 19 '12*</b>	Jan. 9 '13	Jan. 29 '13	Feb. 13 '13	Feb. 15 '13	Mar. 6 '13	Apr. 10 '13	July 8 '13
Jan. 4	Jan. 23	Feb. 12	Feb. 27	Mar. 1	Mar. 20	Apr. 24	July 22
Jan. 18	Feb. 6	Feb. 26	Mar. 13	Mar. 15	Apr. 3	May 8	Aug. 5
Feb. 1	Feb. 20	Mar. 12	Mar. 27	Mar. 29	Apr. 17	May 22	Aug. 19
Feb. 15	Mar. 6	Mar. 26	Apr. 10	Apr. 12	May 1	June 5	Sep. 2
Mar. 1	Mar. 20	Apr. 9	Apr. 24	Apr. 26	May 15	June 19	Sep. 16
Mar. 15	Apr. 3	Apr. 23	May 8	May 10	May 29	July 3	Sep. 30
Mar. 29	Apr. 17	May 7	May 22	<b>***May 22***</b>	June 12	July 17	Oct. 14
Apr. 12	May 1	May 21	June 5	June 7	June 26	July 31	Oct. 28
Apr. 26	May 15	June 4	June 19	<b>***June 19***</b>	July 10	Aug. 14	Nov. 11
May 10	May 29	June 18	July 3	July 5	July 24	Aug. 28	Nov. 25
<b>***May 22***</b>	June 12	July 2	July 17	July 19	Aug. 7	Sep. 11	Dec. 9
June 7	June 26	July 16	July 31	Aug. 2	Aug. 21	Sep. 25	Dec. 23
<b>***June 19***</b>	July 10	July 30	Aug. 14	Aug. 16	Sep. 4	Oct. 9	Jan. 6 '14
July 5	July 24	Aug. 13	Aug. 28	<b>***Aug. 28***</b>	Sep. 18	Oct. 23	Jan. 20 '14
July 19	Aug. 7	Aug. 27	Sep. 11	Sep. 13	Oct. 2	Nov. 6	Feb. 3 '14
Aug. 2	Aug. 21	Sep. 10	Sep. 25	Sep. 27	Oct. 16	Nov. 20	Feb. 17 '14
Aug. 16	Sep. 4	Sep. 24	Oct. 9	Oct. 11	Oct. 30	Dec. 4	Mar. 3 '14
<b>***Aug. 28***</b>	Sep. 18	Oct. 8	Oct. 23	<b>***Oct. 23***</b>	Nov. 13	Dec. 18	Mar. 17 '14
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Sep. 27	Oct. 16	Nov. 5	Nov. 20	<b>***Nov. 20***</b>	Dec. 11	Jan. 15 '14	Apr. 14 '14
Oct. 11	Oct. 30	Nov. 19	Dec. 4	<b>***Dec. 4***</b>	Dec. 25	Jan. 29 '14	Apr. 28 '14
<b>***Oct. 23***</b>	Nov. 13	Dec. 3	Dec. 18	<b>***Dec. 18***</b>	Jan. 8 '14	Feb. 12 '14	May 12 '14
<b>***Nov. 6***</b>	Nov. 27	Dec. 17	Jan. 1 '14	Jan. 3 '14	Jan. 22 '14	Feb. 26 '14	May 26 '14
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<b>***Dec. 4***</b>	Dec. 25	Jan. 14 '14	Jan. 29 '14	Jan. 31 '14	Feb. 19 '14	Mar. 26 '14	June 23 '14
<b>***Dec. 18***</b>	Jan. 8 '14	Jan. 28 '14	Feb. 12 '14	Feb. 14 '14	Mar. 5 '14	Apr. 9 '14	July 7 '14

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
3	Friday, July 19, 2013	August 7, 2013
4	Friday, August 2, 2013	August 21, 2013
5	Friday, August 16, 2013	September 4, 2013

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

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Administration of department—  
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1.4; renumber chs 105 to 108 as  
chs 117 to 120  
IAB 6/26/13 **ARC 0812C**

Room 8, A Level  
Hoover State Office Bldg.  
Des Moines, Iowa

July 16, 2013  
9 to 10 a.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

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Conference Rooms  
Air Quality Bureau Office  
7900 Hickman Rd.  
Windsor Heights, Iowa

July 15, 2013  
1 p.m.

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

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Room 319  
Lucas State Office Bldg.  
Des Moines, Iowa

July 17, 2013  
10 a.m.

**INSURANCE DIVISION[191]**

Regulation of navigators,  
ch 85  
IAB 6/26/13 **ARC 0816C**

Division Office  
330 Maple St.  
Des Moines, Iowa

July 19, 2013  
10 a.m.

**LABOR SERVICES DIVISION[875]**

Boilers—control and safety device  
code adopted by reference,  
91.1(6)  
IAB 7/10/13 **ARC 0817C**

Capitol View Room  
1000 E. Grand Ave.  
Des Moines, Iowa

July 31, 2013  
1:30 p.m.  
(If requested)

**PROFESSIONAL LICENSURE DIVISION[645]**

Psychologists—licensure,  
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IAB 7/10/13 **ARC 0834C**

Fifth Floor Board Conference Room  
Lucas State Office Bldg.  
Des Moines, Iowa

August 5, 2013  
1 to 2 p.m.

**PUBLIC HEALTH DEPARTMENT[641]**

Plumbing materials and methods  
for buildings and premises in  
Iowa, amendments to ch 25  
IAB 6/26/13 **ARC 0811C**  
(ICN Network)

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Public Library Information Center  
2950 Learning Campus Dr.  
Bettendorf, Iowa

July 17, 2013  
11:30 a.m. to 12:30 p.m.

Burlington High School  
421 Terrace Dr.  
Burlington, Iowa

July 17, 2013  
11:30 a.m. to 12:30 p.m.

Iowa Western Community College - 2  
923 East Washington  
Clarinda, Iowa

July 17, 2013  
11:30 a.m. to 12:30 p.m.

**PUBLIC HEALTH DEPARTMENT[641] (cont'd)****(ICN Network)**

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Sixth Floor Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	July 17, 2013 11:30 a.m. to 12:30 p.m.
Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	July 17, 2013 11:30 a.m. to 12:30 p.m.
Public Library 529 Pierce St. Sioux City, Iowa	July 17, 2013 11:30 a.m. to 12:30 p.m.
Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	July 17, 2013 11:30 a.m. to 12:30 p.m.
Meeting Room C, Public Library 415 Commercial St. Waterloo, Iowa	July 17, 2013 11:30 a.m. to 12:30 p.m.

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The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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## FEMA DR-4119-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECTS
Iowa Homeland Security and Emergency Management Division (HSEMD)	<p><b>Hazard Mitigation Grant Program (HMGP)</b></p> <p>Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<ul style="list-style-type: none"> <li>State Agencies and Local Governments.</li> <li>Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations.</li> <li>Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in 44 Code of Federal Regulations (CFR), Section 206.221(e).</li> <li>All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP.</li> <li>All Applicants for a project grant MUST have a FEMA-approved local hazard mitigation plan.</li> </ul> <p><b>Application Process:</b></p> <ul style="list-style-type: none"> <li>- Potential project &amp; planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: <a href="http://www.iowahomelandsecurity.org/grants/HMA.html">http://www.iowahomelandsecurity.org/grants/HMA.html</a>.</li> <li>- NOI Form must be e-mailed to: <a href="mailto:hsemd.mitigation@iowa.gov">hsemd.mitigation@iowa.gov</a>.</li> <li>- NOIs will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review.</li> </ul> <p><b>Deadline to submit an NOI is August 30, 2013.</b></p> <p><b>For additional information please contact:</b></p> <p><b>Dan Schmitz 515-725-9369</b>  <b>Dennis Harper 515-725-9348</b></p> <p><b>Iowa Homeland Security and Emergency Management Division</b>  <b>7105 NW 70th Avenue</b>  <b>Camp Dodge, Bldg. W4</b>  <b>Johnston, Iowa 50131</b></p>	<p><b>Eligible Project Types</b></p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> <li>Acquisition or relocation of hazardprone property for conversion to open space in perpetuity</li> <li>Construction of safe rooms (tornado and severe wind shelters)</li> <li>Structural and non-structural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips)</li> <li>Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization</li> <li>Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system</li> <li>Development of multi-jurisdictional hazard mitigation plans and plan updates</li> </ul> <p><b>Planning Application</b></p> <p>The outcome of a mitigation planning grant award must be a FEMA-approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA-approved hazard mitigation plan.</p>

ARC 0833C

## AGING, DEPARTMENT ON[17]

## Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 231.14, 231.23 and 17A.3, the Department on Aging hereby gives Notice of Intended Action to amend Chapter 10, “Senior Internship Program (SIP),” Iowa Administrative Code.

The proposed amendments change the name of the Senior Internship Program (SIP) to the Older American Community Service Employment Program. This change is necessary for two reasons: (1) The program implemented by Chapter 10 is a federal program governed by Title V of the Older Americans Act (OAA). The OAA refers to the program as the Older American Community Service Employment Program. The change proposed in this Notice of Intended Action aligns the program with the OAA. (2) The name of the program was changed from the Senior Internship Program (SIP) to the Older American Community Service Employment Program in 2013 Iowa Acts, Senate File 184, during this past session of the Iowa General Assembly. The amendments proposed in this Notice of Intended Action align the program with state law that became effective July 1, 2013. The proposed amendments also correct the citation to the Iowa Code section that provides the program’s statutory authority.

Any interested person may make written suggestions or comments on the proposed amendments on or before July 30, 2013. Such written comments or suggestions should be directed to Kimberly Murphy, Iowa Department on Aging, Jessie M. Parker Building, 510 E. 12th Street, Des Moines, Iowa 50319. E-mail may be sent to [kimberly.murphy@iowa.gov](mailto:kimberly.murphy@iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 231 and 2013 Iowa Acts, Senate File 184.

The following amendments are proposed.

ITEM 1. Amend **17—Chapter 10**, title, as follows:

~~SENIOR INTERNSHIP PROGRAM (SIP)~~ OLDER AMERICAN  
COMMUNITY SERVICE EMPLOYMENT PROGRAM

ITEM 2. Amend rule 17—10.1(231) as follows:

**17—10.1(231) Scope and purpose.** The ~~senior internship program (SIP)~~ older American community service employment program fosters individual economic self-sufficiency, promotes useful opportunities in community service activities for unemployed and low-income persons who are aged 55 or older, and increases the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors. ~~SIP~~ The older American community service employment program is a grantee of the Community Service Employment Program, also known as Title V of the Older Americans Act.

ITEM 3. Amend rule **17—10.2(231)**, definitions of “Assessment of job skills,” “Senior internship program,” “Senior internship program coordinator” and “Unsubsidized employment,” as follows:

“*Assessment of job skills*” means a process by which the ~~senior internship~~ older American community service employment program coordinator develops a written history of the work experience and related qualities that an individual possesses that would make the individual marketable as an employee.

“~~Senior internship program~~ Older American community service employment program” ~~or “SIP”~~ means the program established under Iowa Code section ~~231.52~~ 231.51 as amended by 2013 Iowa Acts, Senate File 184.

AGING, DEPARTMENT ON[17](cont'd)

*~~“Senior internship”~~ Older American community service employment program coordinator* means a person employed by the subproject sponsor whose responsibility is to develop jobs, advocate for the employment of eligible individuals, and provide employment services for eligible individuals, including Title V participants.

*“Unsubsidized employment”* means a position where wages, fringe benefits and other expenses for a terminated participant are not paid with ~~SIP~~ older American community service employment program funds.

ITEM 4. Amend subrule 10.3(1) as follows:

**10.3(1)** To be eligible for the ~~SIP Title V subsidized employment~~ older American community service employment program, participants shall meet the following criteria:

a. to c. No change.

ITEM 5. Amend rule 17—10.4(231) as follows:

**17—10.4(231) Funding.**

**10.4(1)** ~~SIP~~ The older American community service employment program shall be funded by:

- a. Title V of the Older Americans Act;
- b. ~~SIP~~ Older American community service employment program state appropriations; and
- c. Other nonfederal sources.

**10.4(2)** Title V funds and state funds shall be allotted among the ~~SIP~~ older American community service employment program subproject sponsors according to the number of Title V slots designated for contracted projects.

**10.4(3)** No change.

**10.4(4)** ~~SIP~~ Older American community service employment program state funds shall not be carried over.

**10.4(5)** Federal Title V funds and ~~SIP~~ older American community service employment program state appropriations shall be allocated through a contractual agreement between the department and the subproject sponsor.

ITEM 6. Amend rule 17—10.5(231) as follows:

**17—10.5(231) Program requirements.**

**10.5(1)** *Participating agencies.* Public, private and not-for-profit organizations are eligible to respond to a request for proposal (RFP). Agencies will be selected to operate ~~SIP the older American community service employment program~~ through the request for proposal process, and the selected agencies will become subproject sponsors.

**10.5(2)** *Subproject sponsor responsibilities.* Subproject sponsor responsibilities for ~~SIP the older American community service employment program~~ shall include the following:

- a. No change.
- b. Designation of a member of the sponsor's staff as ~~a senior internship~~ an older American community service employment program coordinator to ensure program performance;
- c. to k. No change.
- l. Provide access to supportive services to the participant during participation in the ~~SIP~~ older American community service employment program and in the first 12 months of unsubsidized employment;
- m. No change.
- n. Provide each participant with a copy of the host agency grievance procedures, the subproject sponsor's grievance procedures, and the ~~SIP's~~ older American community service employment program's grievance procedures as outlined in this chapter;
- o. to u. No change.

**10.5(3)** No change.

AGING, DEPARTMENT ON[17](cont'd)

**10.5(4) Program coordination with one-stop delivery system.**

a. Subproject sponsors shall coordinate the SIP older American community service employment program with the one-stop delivery system as established under Section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) to ensure opportunities for unsubsidized employment.

b. and c. No change.

**10.5(5) Department responsibilities.** The department shall:

a. Issue a request for proposal for application for SIP older American community service employment program funds;

b. and c. No change.

d. Provide training workshops for SIP older American community service employment program coordinators and other subproject sponsor employment staff, subject to availability of funding;

e. to h. No change.

i. Coordinate the SIP older American community service employment program with the department of workforce development, the department of education, the economic development authority, and other agencies which provide employment services to older Iowans; and

j. No change.

**10.5(6) No change.**

ITEM 7. Amend rule 17—10.6(231) as follows:

**17—10.6(231) Selection process to determine SIP older American community service employment program subproject sponsors.**

**10.6(1) Request for proposal.** SIP Older American community service employment program funding shall be allocated through a request for proposal (RFP) process as mandated by the Iowa department of administrative services. The subproject sponsor shall be a public, private or nonprofit organization with proven management or administrative capabilities to provide employment and training services to older workers.

**10.6(2) and 10.6(3) No change.**

ITEM 8. Amend paragraph **10.7(2)“a”** as follows:

a. Conduct annual evaluations of the SIP older American community service employment program through desk or on-site monitoring;

ITEM 9. Amend **17—Chapter 10**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section ~~231.52~~ 231.51 as amended by 2013 Iowa Acts, Senate File 184.

**ARC 0832C**

**INSPECTIONS AND APPEALS DEPARTMENT[481]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 10A.104(5), the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 36, “Egg Handlers,” Iowa Administrative Code.

This rule making rescinds current Chapter 36 as the Department is no longer responsible for the inspection or licensing of egg handlers. 2011 Iowa Acts, chapter 16, transferred the responsibility for egg production from the Department of Inspections and Appeals to the Department of Agriculture and Land Stewardship.

## INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

The Department of Inspections and Appeals does not believe that the proposed amendment imposes any financial hardship on any regulated entity, body, or individual. Rather, the proposed amendment brings the Department's administrative rules into compliance with Iowa law.

Any interested person may make written suggestions or comments on the proposed amendment on or before July 30, 2013. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to [david.werning@dia.iowa.gov](mailto:david.werning@dia.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 10A.104(5) and Iowa Code chapter 196 as amended by 2011 Iowa Acts, House File 453.

The following amendment is proposed.

Rescind and reserve **481—Chapter 36.**

**ARC 0817C**

**LABOR SERVICES DIVISION[875]**

**Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 89.14, the Boiler and Pressure Vessel Board hereby gives Notice of Intended Action to amend Chapter 91, “General Requirements for All Objects,” Iowa Administrative Code.

This amendment would update a reference to an American Society of Mechanical Engineers' code. The Division's rules currently adopt by reference the 2009 edition of Controls and Safety Devices for Automatically Fired Boilers. The amendment would adopt by reference the 2012 edition of that document.

The purposes of this amendment are to make the rule more current and to implement legislative intent.

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on July 30, 2013, a public hearing will be held on July 31, 2013, at 1:30 p.m. in the Capitol View Room at 1000 East Grand Avenue, Des Moines, Iowa. Interested persons will be given the opportunity to make oral statements and file documents concerning the proposed amendment. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should call (515)281-5915 in advance to arrange access or other needed services.

Written data, views, or arguments to be considered in adoption shall be submitted by interested persons no later than July 31, 2013, to the Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iwd.iowa.gov](mailto:kathleen.uehling@iwd.iowa.gov).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 89.

The following amendment is proposed.

Amend subrule 91.1(6) as follows:

**91.1(6) *Control and safety device code adopted by reference.*** Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (~~2009~~) (2012) is adopted by reference, and reinstallations and installations after ~~January 1, 2010~~ October 31, 2013, shall comply with it.

**ARC 0834C****PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 147.76, the Board of Psychology hereby gives Notice of Intended Action to amend Chapter 240, “Licensure of Psychologists,” and Chapter 241, “Continuing Education for Psychologists,” Iowa Administrative Code.

These proposed amendments rescind the provision for Board review of non-American Psychological Association (APA)/Canadian Psychological Association (CPA)-accredited or Association of State and Provincial Psychology Boards (ASPPB)-designated doctoral programs for licensure applicants who were matriculated in such programs prior to January 12, 2005; clarify the eligibility requirements for the national examination; provide for the multijurisdictional Certificate of Professional Qualification (CPQ) to be accepted as meeting the qualifications for licensure by endorsement; provide continuing education credit hours in the category of ethics, laws and regulations to Board members for attendance and participation at Board meetings; require additional criteria for approval of continuing education hours of credit per biennium that may be used for scholarly research and preparation of new courses; add the category of presentations to other professionals for continuing education credit; and increase the combined number of continuing education hours of credit per biennium that may be used for research, course preparation, and presentations to other professionals.

Any interested person may make written comments on the proposed amendments no later than August 5, 2013, addressed to Sharon Dozier, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; e-mail [sharon.dozier@idph.state.ia.us](mailto:sharon.dozier@idph.state.ia.us).

A public hearing will be held on August 5, 2013, from 1 to 2 p.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

The proposed amendments are subject to the waiver provisions at 645—Chapter 18.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 154B and 272C and Iowa Code section 147.36.

The following amendments are proposed.

ITEM 1. Amend paragraph **240.2(1)“d”** as follows:

~~d. No~~ Except as otherwise stated in these rules, no application will be considered by the board until:

(1) Official copies of academic transcripts sent directly from the school to the board of psychology have been received by the board; and

(2) Satisfactory evidence of the candidate’s qualifications has been supplied in writing on the prescribed forms by the candidate’s supervisors; ~~and.~~

~~(3) Rescinded IAB 9/24/08, effective 10/29/08.~~

~~(4) Rescinded IAB 9/4/02, effective 10/9/02.~~

ITEM 2. Rescind and reserve subrule **240.3(4)**.

ITEM 3. Amend subrule 240.4(1) as follows:

**240.4(1)** To be eligible to take the national examination, the applicant shall:

a. Meet all requirements of subrule 240.2(1), paragraphs “a” to “c”; ~~and~~

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- b.* Provide official copies of academic transcripts sent directly from the school to the board of psychology; and
- c.* Provide the completed supervision registration form according to the instructions on the form.

ITEM 4. Amend rule 645—240.10(147) as follows:

**645—240.10(147) Licensure by endorsement.** An applicant who has been a licensed psychologist at the doctoral level under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may license by endorsement any applicant from the District of Columbia or another state, territory, province, or foreign country who:

**240.10(1)** Submits to the board a completed application.

**240.10(2)** Pays the licensure fee.

**240.10(3)** Provides verification of a current Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Boards (ASPPB). Applicants providing certification are deemed to have met the requirements stated in paragraphs 240.10(3) “a” to “c.” The board may license by endorsement any other applicant who:

*a.* Provides one of the following: the official EPPP score sent directly to the board from the Association of State and Provincial Psychology Boards ASPPB, or verification of the EPPP score sent directly from the state of initial licensure. The recommended passing score established by the Association of State and Provincial Psychology Boards ASPPB shall be considered passing.

**240.10(4) *b.*** Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- ~~*a.*~~ (1) Licensee’s name;
- ~~*b.*~~ (2) Date of initial licensure;
- ~~*c.*~~ (3) Current licensure status; and
- ~~*d.*~~ (4) Any disciplinary action taken against the license.

**240.10(5) *c.*** Shows evidence of licensure requirements that are substantially equivalent to those required in Iowa by one of the following means:

~~*a.*~~ (1) Provides:

- ~~(1)~~ 1. Official copies of academic transcripts that have been sent directly from the school; and
- ~~(2)~~ 2. Satisfactory evidence of the applicant’s qualifications in writing on the prescribed forms by the applicant’s supervisors. If verification of professional experience is not available, the board may consider submission of documentation from the state in which the applicant is currently licensed or equivalent documentation of supervision; or

~~*b.*~~ (2) Has an official copy of one of the following certifications sent directly to the board from the certifying organization:

~~(1) Current Certification of Professional Qualification that was originally issued by the Association of State and Provincial Psychology Boards on or after January 1, 2002.~~

~~(2) 1.~~ Current credentialing at the doctoral level as a Health Service Provider in Psychology by the National Register of Health Service Providers in Psychology.

~~(3) 2.~~ Board certification by the American Board of Professional Psychology that was originally granted on or after January 1, 1983.

**240.10(6)** ~~Rescinded IAB 9/24/08, effective 10/29/08.~~

ITEM 5. Amend paragraph **241.3(2)“b”** as follows:

*b.* For all renewal periods following the second license renewal, licensees shall obtain 6 hours of continuing education pertaining to the practice of psychology in any of the following areas: ethical issues, federal mental health laws and regulations, Iowa mental health laws and regulations, or risk management. For all board members appointed to a first term beginning May 1, 2013, or later, a maximum of 2 of these hours may be obtained by providing service as a member of the board as follows:

(1) One hour of credit for attendance and participation at a minimum of three regular quarterly board meetings during the license biennium, or

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

(2) Two hours of credit for attendance and participation at a minimum of six regular quarterly board meetings during the license biennium.

ITEM 6. Rescind paragraph **241.3(2)“c”** and adopt the following **new** paragraph in lieu thereof:

c. A licensee may obtain the remainder of continuing education hours of credit by:

(1) Completing training to comply with mandatory reporter training requirements, as specified in 645—subrule 240.12(4). Hours reported for credit shall not exceed the hours required to maintain compliance with required training.

(2) Attending programs/activities that are sponsored by the American Psychological Association or the Iowa Psychological Association.

(3) Attending workshops, conferences, or symposiums that meet the criteria in subrule 241.3(1).

(4) Completing academic coursework that meets the criteria set forth in these rules. Continuing education credit equivalents are as follows:

1 academic semester hour = 15 continuing education hours

1 academic quarter hour = 10 continuing education hours

(5) Completing home study courses for which a certificate of completion is issued.

(6) Completing electronically transmitted courses for which a certificate of completion is issued.

(7) Conducting scholarly research, the results of which are published in a recognized professional publication. In order to claim such credit, the licensee must attest to the hours actually spent conducting research, demonstrate that the research is integrally related to the practice of psychology, explain how the research advances the licensee's knowledge in the field, and provide the published work.

(8) Preparing new courses on material that is integrally related to the practice of psychology and is beyond entry level. In order to claim such credit, the licensee must: attest that the licensee has not taught the course in the past or that the licensee has not substantially altered the course content; request a specific amount of continuing education credit; describe how the course is integrally related to the practice of the profession and advances the licensee's knowledge in the field; and supply a course syllabus that supports the licensee's request for credit.

(9) Presenting to other professionals. A licensee may receive credit on a one-time basis for presenting continuing education programs that meet the criteria of subrule 241.3(1). Two hours of credit will be awarded for each hour of presentation.

ITEM 7. Amend paragraph **241.3(2)“d”** as follows:

d. A combined maximum of ~~20~~ 30 hours of credit per biennium may be used for scholarly research ~~and~~ preparation of new courses, and presentations to other professionals.

**ARC 0818C**

## **REGENTS BOARD[681]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 13, “Iowa State University of Science and Technology Organization and General Rules,” Iowa Administrative Code.

In general, the proposed amendments include basic “housekeeping” revisions such as updating titles and contact information. The amendment in Item 2 deletes the list of forms and directs the reader to the university's Web site where the forms, primarily electronic, may be found. Amendments proposed in Item 3 increase contracting authority given to the Senior Vice President and Provost. Amendments in



## REGENTS BOARD[681](cont'd)

Items 5 through 15 update procedures and processes for use of university facilities and grounds. Item 9 adds a subrule prohibiting camping on the campus except for specifically approved special events.

Any interested person may make written comments on the proposed amendments on or before July 30, 2013, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6421; or e-mail [mbruns@iastate.edu](mailto:mbruns@iastate.edu).

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 262.9(3).

The following amendments are proposed.

ITEM 1. Amend rule 681—13.1(262) as follows:

**681—13.1(262) Organization.**

**13.1(1) *Statement of university mission.*** Iowa State University of science and technology is a public land-grant institution serving the people of Iowa, the nation, and the world through its interrelated programs of instruction, research, extension and professional service. With an institutional emphasis in areas related to science and technology, the university carries out its traditional mission of discovering, developing, disseminating and preserving knowledge. The university's mission and vision may be found in the strategic plan at [www.president.iastate.edu/planning/strategic/plan.php](http://www.president.iastate.edu/planning/strategic/plan.php).

**13.1(2) *Officers.*** The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has authority and duties as have been delegated by the board of regents.

A detailed listing of the university units is shown on the organizational chart at the following Web site: <http://www.president.iastate.edu/org/univorg.pdf>.

**13.1(3) *Operations.***

*a.* The executive senior vice president and provost oversees the academic, research, and extension activities of the university.

*b.* The academic mission of the university is principally carried out through its eight colleges: graduate, agriculture and life sciences, engineering, human sciences, liberal arts and sciences, design, business and veterinary medicine. The dean of each college is its chief administrative officer.

*c.* Extension and outreach are integral parts of the land-grant university system and provide the link whereby the findings of research are taken to the people of Iowa people. The chief administrative officer is the vice president for extension and outreach.

*d.* The vice president for research and economic development oversees the university's broad range of research, which contributes to economic development in the state and the nation.

*e.* The senior vice president for student affairs oversees the various services provided to students, including student activities, student health and student housing and dining.

*f.* The senior vice president for business and finance oversees the various business-related functions of the campus university, including physical plant, safety, accounting and purchasing.

**13.1(4) *Communications.*** Inquiries, submissions, and requests should be addressed to the Office of University Relations. Contact information for the Office of University Relations may be found online at the following address: ~~<http://www.public.iastate.edu/~ur/>~~ <http://www.ur.iastate.edu>. Communications may also be addressed to the office of the Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests by the public may be submitted by informal letter or e-mail. However, application for some purposes is to be made on a specified form. Rule 681—13.6(262) ~~contains a list of the forms and the offices from which the forms are available~~ provides an address for obtaining forms.

**13.1(5) *Policy library.*** The university policy library contains the policies governing the internal administrative operation of the university. It is available online at the following address: <http://policy.iastate.edu/>. Copies of the policies may be obtained from the Iowa State University Policy Administrator, 4750 3550 Beardshear Hall, telephone (515)294-1385.

## REGENTS BOARD[681](cont'd)

ITEM 2. Amend rule 681—13.6(262) as follows:

**681—13.6(262) Forms.** The university uses ~~the a~~ number of forms listed below (primarily electronic) in dealing with the public. The various forms are classified by subject matter, followed by the name of the office where they are available. The forms may be obtained by writing to the appropriate office in care of the Iowa State University of Science and Technology, Ames, Iowa 50011. The office may also have the forms or additional contact information on the office's Web page, which may be accessed through the university's Web site located at <http://www.iastate.edu/>. Forms may be found via the University Forms Web site at [www.policy.iastate.edu/forms.php](http://www.policy.iastate.edu/forms.php).

Academic forms—deans of the colleges and departmental offices, registrar.

All academic matters such as enrollment, dropping and adding of courses, applying for graduation, waiver of academic requirements, academic grievances and the like.

Admission application forms—director of admissions.

Undergraduate, graduate, and professional students. Graduate and professional students may need to secure special forms from the department to which they are applying.

Housing forms—director of residence.

All forms related to housing, including applications and contracts for residence halls and apartments.

Interecollegiate athletic tickets—athletic ticket office.

All forms relating to purchase of athletic tickets.

Student financial aid—student financial aid office.

All forms related to financial aid, including applications for student financial aid, loan applications.

Educational placement—teacher and career placement offices of the various colleges and the career exploration services office.

All forms related to placement for service learning, internships, registration forms for credential service, reference forms for credential files.

International education—study abroad center or international students and scholars.

All forms related to foreign study and immigration matters for visiting international students and scholars.

Registration—registrar.

Forms for registering and enrolling in classes.

Residency for tuition purposes—registrar.

Forms for requesting residency determinations.

Campus and student organizations—student activities center.

All forms for registering student groups, payment of club financial obligations, renting space, permission for holding events and the like.

Scientific testing—testing laboratories.

Each testing laboratory has its own forms for submission of samples and payment for testing services.

Artistic and cultural event tickets—Iowa State Center and athletics.

Forms for purchase of tickets to events at Iowa State Center and Hilton Coliseum.

Iowa State Center space use—Iowa State Center.

Rental agreement.

Hilton Coliseum, Jack Trice Stadium, Jacobson Athletic Building, and Steve and Debbie Bergstrom Indoor Practice Facility space use—athletics.

Facility use agreement.

Employment—human resource services.

All forms related to employment, including tax, benefits, employee information and applications for employment.

Parking and traffic—parking division of the department of public safety.

All forms related to parking and traffic, including permit applications, and violation citations.

Transcript requests—registrar.

Requests for issuance of transcripts.

## REGENTS BOARD[681](cont'd)

ITEM 3. Amend rule 681—13.8(262) as follows:

**681—13.8(262) Contracting authority.**

**13.8(1) General delegation.** Except for authority retained by the board of regents in the rules adopted under [681] of the Iowa Administrative Code or in the regents policy manual, the board of regents has delegated to the president authority to enter into contracts and agreements. The president has delegated authority for entering into such contracts and agreements ~~and contracts~~ to the senior vice president for business and finance in all cases except the following:

a. Employment ~~matters~~ contracts and agreements involving deans, directors, department chairs and faculty are ~~administered~~ signed by the ~~executive~~ senior vice president and provost.

b. Applications, proposals, ~~and agreements~~ for grants, ~~and contracts for educational and agreements relating to economic development, and research and sponsored projects~~ are signed by the senior vice president and provost, vice president for research and economic development or the director of the office of sponsored programs administration.

c. ~~Agreements~~ Contracts and agreements relating to form educational consortia, ~~for joint educational projects, and for cooperative education, service-learning and internship opportunities, and academic instruction provided to others~~ may be ~~are~~ signed ~~and administered~~ by the ~~executive~~ senior vice president and provost.

**13.8(2) Specific delegations.** Within the limits prescribed by the board of regents, the president, the senior vice president for business and finance, the ~~executive~~ senior vice president and provost, the vice president for research and economic development, and the director of the office of sponsored programs administration may delegate the authority they have received as provided by the ISU contracting authority policy found in the policy library.

ITEM 4. Amend rule 681—13.9(262) as follows:

**681—13.9(262) Lost and found.** ~~Lost and found items are deposited with the department of public safety. Unclaimed items are treated as abandoned property. Inquiries about items lost or found may be made by contacting Central Stores at (515)294-5762. A listing of lost and found items may be found at [www.iastate.edu/found/](http://www.iastate.edu/found/).~~

ITEM 5. Amend rule 681—13.10(262) as follows:

**681—13.10(262) General priority ~~on use of~~ for facilities and grounds use.** University ~~grounds and facilities and grounds~~ are primarily dedicated to the university's missions of teaching, research and service. While ~~grounds and facilities and grounds~~ are generally open to noncommercial use by the public, students, student organizations and staff, use for other than university-related purposes must not substantially interfere with university activities and must be in conformity with the requirements of this chapter. University-related activities, including the activities of recognized campus and student organizations, will be given priority. (The ISU facilities and grounds use activities policy may be found in the policy library.)

**13.10(1)** Except as specifically indicated, the policies stipulated in rules 681—13.11(262) to 681—13.19(262) are applicable to noncommercial uses.

**13.10(2)** Commercial uses, including solicitation, advertising and sales, are subject to the university's ~~policy rule~~ on commercial activities and charitable uses in rule 681—13.15(262).

ITEM 6. Amend rule 681—13.11(262) as follows:

**681—13.11(262) Access to facilities and grounds.** University ~~grounds and facilities and grounds~~ are generally open to public access except as provided below:

**13.11(1)** Persons may not enter ~~buildings or facilities or grounds~~ without authorization when the ~~buildings or facilities or grounds~~ are locked, when signs indicate they are closed to the public or when they are closed to the public for specific events.

## REGENTS BOARD[681](cont'd)

**13.11(2)** The following facilities and grounds are restricted areas. Access requires express permission of the relevant building supervisor, superintendent or other person in charge of the facility: individual residences or dwellings; research laboratories or facilities; farms and associated buildings; animal storage and confinement facilities; utility and maintenance closets; mechanical rooms; utility facilities; utility tunnels; storage areas; hazardous materials waste storage and handling areas; marked or fenced construction areas; institutional food preparation areas; private offices; workrooms; shops; areas where medical, psychological or other consultation takes place; radio and television studios; intercollegiate athletics competition facilities; or areas which bear signs indicating that access is restricted. The university has leased some of its ~~property and~~ facilities and grounds to other parties for use related to university purposes (for example, the Ames Laboratory and the National Soil Tillage Laboratory for Agriculture and Environment). Such areas are not open to public use except as provided by the lessee of the property or facility. The buildings at the Iowa State Center (Scheman Continuing Education Building, Stephens Auditorium and Fisher Theater) and the Iowa State University Research Park are managed by separate organizations that regulate the use of these facilities and ~~property~~ grounds.

**13.11(3)** Access to ~~grounds and~~ facilities and grounds may be denied when they are closed to the public for special university events, or when access would conflict with ~~another~~ an approved use of the ~~grounds or facilities or grounds~~. The university may limit or control access to areas of the campus for ceremonial events and celebrations such as graduation and VEISHEA.

**13.11(4)** Unapproved uses of university ~~grounds and~~ facilities and grounds by the general public are subject to preemption for university activities, for use by recognized student and campus organizations and for use by students, faculty and staff for purposes related to the university's mission.

**13.11(5)** Access to performances, art exhibits, museums and other exhibitions may be regulated by requirement of payment of a fee for entry. Visitors are required to abide by policies ~~set by~~ established for the various facilities and grounds.

**13.11(6)** Access to campus roads and parking is governed by university parking and traffic regulations, as well as signage erected upon campus roadways and parking areas.

ITEM 7. Amend rule 681—13.12(262) as follows:

**681—13.12(262) When authorization is required for use of facilities and grounds open for general use.** To prevent conflicts in the use of facilities and grounds, groups or persons wishing to use facilities and grounds, whether indoors or outdoors, should schedule use of university facilities and grounds as provided ~~below in this rule~~. ISU has designated public forum areas with few restrictions. Public events, ~~as defined below~~, require filing of a notice, or approval depending on the event. "Public events" are defined as outdoor events in which more than 50 persons are participating or at which the sponsor reasonably expects more than 50 persons to be involved, or indoor events in which more than 15 persons are participating or at which the sponsor reasonably expects more than 15 persons to be involved. Organizations and groups desiring to use university facilities and grounds should contact the offices listed in subrule 13.12(3) to determine availability and fees for use.

**13.12(1) Outdoor areas.**

*a. Designated public forums.* The Edward S. Allen Area of Free Debate, located west and south of the Hub, and the area south of the Campanile have been designated as public forums for noncommercial expression. If these areas have not been reserved for use for university purposes or by student, faculty or staff organizations, any member of the public or of the university community may use these areas for expressive activities on a first-come, first-served basis. Signs or placards, each of which is carried by one or two persons, are permitted. Freestanding displays are permitted as long as the display occupies a space of less than 200 cubic feet and has a footprint of not more than 100 square feet, weighs less than 300 pounds and is accompanied at all times by an individual responsible for the display. Leafleting may be conducted if done in a way that avoids substantial littering of the campus.

*b. Uses that require only notice.* ~~Organizations and groups of persons wishing to use outdoor areas other than a designated public forum for a public event must file with the Student Activities Center a notice of intent to use an area.~~ Student organizations, university departments, and others wishing to use outdoor areas other than a designated public forum for a public event must notify the Memorial Union

## REGENTS BOARD[681](cont'd)

Event Management office. If possible, such notice should be ~~given~~ submitted at least 24 hours in advance of the event but, in any case, must be ~~given~~ submitted at least 3 hours prior to the event. No approval is necessary if the event meets the following criteria:

- (1) On weekdays between the hours of 8 a.m. and 4 p.m., the event will be held at least 100 feet away from buildings that normally hold classes;
- (2) No other person or group has been authorized to use the area or has filed a notice of intent to use that area or an adjacent area;
- (3) The organizers do not intend to use amplification equipment or equipment requiring use of electrical power connections. Hand-held megaphones are permitted if used so as to direct the sound away from nearby buildings that normally hold classes;
- (4) Participants will not use displays other than signs or banners carried at all times by one or two participants (unattended displays may not be used without permission);
- (5) If the event is not held at one of the two public forum areas, the event will occur only between the hours of 8 a.m. and 10 p.m.; and
- (6) The sponsor of the event indicates that the event will comply with the general restrictions indicated above.

c. *Uses that require approval.* A public event not at a designated public forum, and which does not meet the above criteria, requires prior approval by the filing of an ~~Activity Authorization Form~~ Online Event Authorization Request Form with the Student Activities Center when recognized student organizations make the request and with Facilities Planning and Management when university departments and nonuniversity entities make the request. It is preferred that the online request be made at least ~~three~~ ten business days and no later than four business days in advance of the proposed event. The Student Activities Center or Facilities Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, ~~within one business day in~~ a timely manner. The sponsors of the event may request a waiver of the ~~three~~ four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event meets the general rules indicated in ~~this chapter rule 681—13.14(262)~~ and whether the event is appropriate for the location. Approval may be conditioned upon ~~sponsors'~~ sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. ~~Events~~ Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

(2) ~~Following such clearance approval of the event,~~ the organization shall make particular arrangements regarding location, electrical power needs, custodial services, and provision for liability insurance as directed by the Student Activities Center or Facilities Planning and Management. ~~If streets or parking lots will be involved, the organization must receive clearance from the department of public safety, telephone (515)294-4428 Parking Division, (515)294-3388. If streets will be involved, the organization must receive clearance from the office of the senior vice president for business and finance, (515)294-6162. Preferred locations for outdoor events likely to cause disruption of other activities covered under this subrule are the areas south or north of the Campanile, west of Curtiss Hall, east of Ross Hall south of MacKay Hall, south of the Hub, and south of the Parks Library, and west of Marston Hall provided the events do not conflict with university classes or scheduled activities and provided the events conform to appropriate uses for the area.~~

**13.12(2) Indoor areas.**

a. *General policy regarding use.* Any use of indoor areas must not conflict with university programs and events and must be compatible with the purpose of the facility or the particular area to be used.

(1) Members of the general public and campus community are free to enter university facilities, other than restricted areas, during business hours as necessary to transact business, seek information about the university or deliver petitions or correspondence.

## REGENTS BOARD[681](cont'd)

(2) Organizations and groups desiring to use ~~academic and residence~~ university buildings and facilities for meetings, events, and conferences should contact the offices listed in ~~13.12(2) "d"~~ 13.12(3) to determine availability and fees for use. ~~Organizations desiring to use the Iowa State Center or the Iowa State Memorial Union for conferences, meetings and events should contact the relevant facility at the numbers listed below.~~

(3) Organizations (other than recognized campus and student organizations) using classrooms, auditoriums, and meeting rooms will be charged the customary rental of those facilities. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

(4) To avoid disruption, the following kinds of indoor areas are not available for non-university-related assembly or solicitation: hallways, stairways, waiting rooms, residence halls and apartments, dining facilities, workrooms, common areas provided around service windows, the Lloyd Veterinary Hospital Medical Center and the Thielen Student Health Center. Atria and open areas in buildings are generally available for use except when they are used as waiting areas or common areas around service windows.

*b. Uses that require scheduling.* To avoid conflicts with university activities and permitted use by others, organized use of indoor areas by groups of 15 or fewer persons that will substantially exclude others from using the same or adjacent areas, other than transitory passage through public areas and hallways, requires scheduling through the Student Activities Center Memorial Union Event Management Office when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request.

*c. Uses that require approval.* Organized or concerted assembly in or solicitation at indoor areas by groups involving more than 15 persons for non-university-related purposes must be approved by the filing of an ~~activity authorization form~~ Online Event Authorization Request Form with the Student Activities Center ~~at least three~~ when recognized student organizations make the request and with Facilities Planning and Management or Conference Planning and Management when university departments or nonuniversity entities make the request. It is preferred that the online request be made at least ten business days and no later than four business days in advance of the activity. The Student Activities Center and Facilities Planning and Management or Conference Planning and Management will make every effort to provide approval or nonapproval, with a statement of the reasons for nonapproval, ~~within one business day in a timely manner~~. The sponsors of the event may request waiver of the ~~three~~ four-day requirement. A waiver may be granted if the Student Activities Center or Facilities Planning and Management or Conference Planning and Management determines that there are good reasons for an exception.

(1) Approval of events will be based upon whether the event is ~~consistent with the facility's purpose and with the university's general rules on facility use~~ meets the general rules indicated in rule 681—13.14(262) and whether the event is appropriate for the facility. ~~In addition, reasonable time, place and manner restrictions may be required. Events will not be disapproved based upon the content of any expressive activity.~~

(2) Approval may be conditioned upon sponsors making reasonable assurances that the event will comply with the general rules. In addition, reasonable time, place and manner restrictions may be required. Unless the event will violate the law, events will not be disapproved based upon the content of proposed speaking or expressive activity. Persons denied authorization may appeal to the senior vice president for business and finance.

~~d.~~ **13.12(3) Facilities and grounds managed by separate university offices or organizations.**

*a.* The Student Activities Center and users must coordinate use of these facilities with the listed offices:

1. (1) Common areas in buildings—building ~~coordinator~~ supervisor for the building can be found at [www.fpm.iastate.edu/maps/buildings/](http://www.fpm.iastate.edu/maps/buildings/);

## REGENTS BOARD[681](cont'd)

~~2.~~ (2) Rooms in academic or administrative buildings—Room Scheduling, General Services Building, ~~294-5338~~(515)294-4493. Room Reservation Request Forms are available at [www.fpm.iastate.edu/roomscheduling/department form/](http://www.fpm.iastate.edu/roomscheduling/department_form/);

~~3.~~ (3) Memorial Union—Event Management Office, 3630 Memorial Union, (515)294-1437;

~~4.~~ (4) Iowa State Center—Center Office, 4 Scheman Conference Center, (515)294-3347;

~~5.~~ (5) Residence Halls—(515)294-2900 (general); (515)294-6428 (meeting rooms); (515)294-8384 (conferences);

~~6.~~ (6) University Family Housing Schilletter and University Village (SUV) Office, (515)294-5360;

~~7.~~ (7) Fredericksen Court Office, (515)294-2107;

~~8.~~ (8) Recreation facilities and grounds—Recreation Services Administrative Office, 2220 1180 State Gym, (515)294-4980. ~~Recreation facilities include Beyer Hall, State Gym, Lied Recreation/Athletic Facility, and outdoor intramural recreation fields and courts~~ Recreation facilities and grounds are listed at [www.recservices.iastate.edu/facilities](http://www.recservices.iastate.edu/facilities);

~~9.~~ (9) Howe Hall Auditorium—Engineering Distance Education, (515)294-7470;

~~10.~~ (10) University Studios—(515)294-6014;

~~11.~~ (11) Farm Bureau Pavilion—Animal Science, (515)294-5424;

~~12.~~ (12) Athletics Facilities facilities and grounds—Athletic Department, Jacobson Athletic Building, (515)294-3662. Athletic facilities and grounds are listed at [www.cyclones.com](http://www.cyclones.com); ~~Athletics facilities include Hilton Coliseum, Jack Trice Stadium, Jacobson Athletic Building, and Steve and Debbie Bergstrom Indoor Practice Facility.~~

(13) Alumni Center—Alumni Association, 420 Beach Avenue, (515)294-4625;

(14) Reiman Gardens—1407 University Boulevard, (515)294-8994.

*b.* Students and student organizations have priority for use of residence facilities and grounds, recreation facilities and grounds and the Memorial Union. Students and student organizations may directly contact the offices listed above to schedule use of meeting rooms and other facilities and grounds.

*c.* Organizations (other than recognized campus and student organizations) using facilities and grounds will be charged the customary rental of those facilities and grounds. All users will be responsible for costs incurred for setup, equipment use, cleanup and use of services and materials of the university.

*d.* As part of the university's comprehensive effort to conserve energy and save money, activities will generally be scheduled in buildings normally open and operational in the evenings. More information may be obtained through the Room Scheduling Office, (515)294-5338. The ISU policy on facilities and grounds use after hours may be found in the policy library.

ITEM 8. Amend subrule 13.13(2) as follows:

**13.13(2) Exterior displays.**

*a. Residence department buildings.* Signs, banners, and other display materials may be affixed to buildings only with the authorization of the coordinator of residence life in each residence complex.

*b. Academic buildings.* Signs, banners, and other display materials may not be affixed to buildings. Rare exceptions may be made in cases in which the display materials are clearly associated with an academic function. Prior approval must be obtained from the Student Activities Center and from Facilities, Planning and Management, ~~General Services Building~~, by the submission of an Activity Authorization Form. Such forms are available at the Student Activities Center.

*c. Exterior display, not on buildings.* Signs, banners, and other display materials may not be affixed to sidewalks, trees, fences, shrubs, light poles, or any other fixture of the landscape, nor may freestanding displays be placed in any area other than those areas scheduled through the activity authorization process. Except for those displays indicated in 13.12(1)"a" and 13.12(1)"b"(4) at events for which approval is not required, prior approval of displays must be obtained from the Student Activities Center by the submission of an ~~Activity Authorization Form~~ Online Event Authorization Request Form for recognized student organizations or from Facilities Planning and Management for university departments or nonuniversity entities.

## REGENTS BOARD[681](cont'd)

*d. Cleanup and repair.* All visual displays should be removed as they become outdated or after authorization has expired. Cleanup and repair charges may be billed to the organization/department/individual for failure to clean up promptly. Organizations, departments, ~~or individuals,~~ or nonuniversity entities may be billed for cleanup and repair expenses for illegally posted materials. Additional information regarding exterior displays may be found in the ISU policy on facilities and grounds use activities in the policy library.

ITEM 9. Amend rule 681—13.14(262) as follows:

**681—13.14(262) General rules ~~on use of grounds and~~ for facilities and grounds use.**

**13.14(1)** University ~~grounds and~~ facilities and grounds may not be used in a manner that:

- a.* Substantially disrupts university events or the lawful use by other persons;
- b.* Substantially interferes with the free flow of vehicle or pedestrian traffic;
- c.* Results in injury or creates the threat of injury to persons;
- d.* Involves commission of a crime or illegal behavior;
- e.* Damages or defaces university property or threatens to damage property; or
- f.* Results in significant littering, pollution or other nuisance.

**13.14(2)** No person shall engage in harassment or stalking as defined by Iowa criminal law; or engage in sexual or racial harassment in violation of university policy.

**13.14(3)** No person may engage in public urination, defecation or other actions that create a sanitary hazard.

**13.14(4)** A person who enters specialized facilities, such as libraries, recreation facilities and grounds, clinics, research laboratories and other research facilities, and areas not open to the general public must comply with policies established by such facilities and grounds. Questions about applicable policies should be directed to the manager or supervisor of the facility or grounds.

**13.14(5)** Weapons are not permitted on the campus except for purposes of law enforcement and as specifically authorized for purposes of instruction, research or service. A weapon is any instrument or device which is designed primarily for use in inflicting death or injury upon a human being or animal; and which is capable of inflicting death or injury when used in the manner for which it was designed. Weapons include any pistol, revolver, shotgun, machine gun, rifle or other firearm, BB or pellet gun, ~~tazer~~ taser or stun gun, bomb, grenade, mine or other explosive or incendiary device, ammunition, archery equipment, dagger, stiletto, switchblade knife, or knife having a blade exceeding five inches in length. Residents of university housing may possess knives having a blade exceeding five inches for cooking purposes.

**13.14(6)** Consumption of alcohol is not permitted in outdoor areas of the campus. An exception is made for the consumption of alcoholic beverages served at approved events for which a valid liquor permit has been issued as provided by state law, and for private events or in designated areas at events. Unauthorized alcoholic beverages are subject to confiscation.

**13.14(7)** Vehicles are not permitted off roadways or parking areas without permission from ~~Room Scheduling Manager,~~ Room Scheduling Manager, Campus Services, 152 General Services Building, telephone (515)294-5338 0692 or from the Manager of Parking Division, 27 Armory, telephone (515)294-1987.

**13.14(8)** For reasons of safety, sanitation, and preservation of campus property, camping is not permitted except for special events approved by the senior vice president for business and finance or senior vice president for student affairs.

ITEM 10. Amend rule 681—13.15(262) as follows:

**681—13.15(262) Commercial and charitable uses.** This rule applies to ~~private~~ commercial and charitable uses other than those of university units, of university-affiliated entities or of recognized campus organizations.

**13.15(1)** *Commercial solicitation, advertising and sales.* Commercial solicitation, advertising and sales are not permitted on the campus except as follows:



## REGENTS BOARD[681](cont'd)

a. Newspapers and periodicals may be distributed in established locations in accordance with the university's periodical distribution policy, which is available from the senior vice president for business and finance.

b. Commercial advertising or displays on bulletin boards must conform to the provisions of subrule 13.13(1).

c. Commercial sales or solicitation may be approved by the senior vice president for business and finance. Such activity may be approved for academic areas of the campus if the activity directly relates to the academic program. Otherwise, such commercial activity may be approved only in the area directly to the north of the Memorial Union, with priority being given to all other campus-related uses.

**13.15(2) ~~Mail systems~~ Charitable solicitation.** Use of university mail systems and related facilities may be approved by the senior vice president for business and finance for the solicitation of employees by charitable organizations when the following criteria are met.

a. The charitable organization presents documentation of its tax-exempt status as provided in Section 501(c)(3) of the Internal Revenue Code;

b. The solicitation is conducted once a year through an on-campus coordinated campaign of all eligible organizations meeting the conditions and giving written notice to the university of the desire to participate at least 120 days prior to the campaign period;

c. The organization may be expected to pay the administrative and out-of-pocket costs associated with using the university ~~campus~~ mail system or other university facilities and grounds;

d. The solicitation by any one charitable organization may occur once in any calendar year; and

e. Any eligible charitable organization acting pursuant to the authority of this rule may also make use of the payroll deduction system described in Iowa Code sections 70A.14 and 70A.15, if qualified under the terms of those provisions.

ITEM 11. Amend subrule 13.16(2) as follows:

**13.16(2)** Special rules may be enforced with respect to events that are open to the public, based upon the nature of the event. For example, performers may require that no cameras or audio- or video-recording devices be permitted in the arena. Persons may be refused entry with items that may be used as projectiles. Umbrellas and other items that may obstruct the views of other attendees may be excluded from facilities and grounds.

ITEM 12. Amend subrule 13.16(5) as follows:

**13.16(5)** Laser pointers and similar devices are not permitted at athletic and performing events and are subject to confiscation. A person who uses any such device to interfere with athletes and performances is subject to immediate removal from the facility and grounds.

ITEM 13. Amend subrule 13.16(9) as follows:

**13.16(9)** In order to ensure that a person attending events may enter facilities and grounds efficiently, a person leaving the facility or grounds early in the event may be denied the right to secure a pass to reenter.

ITEM 14. Amend rule 681—13.18(262) as follows:

**681—13.18(262) ~~Livestock and pets~~ Animals on campus.**

**13.18(1)** All livestock and other domesticated animals, including but not limited to fowl, cats, dogs, cows, horses, mules, sheep, goats, swine, or reptiles, when on university property, must be kept confined or otherwise physically constrained. Any such animal found running at large on university grounds or found within university facilities and not part of a university-sponsored research program or project may be impounded. Consistent with the laws of the state of Iowa, such animals may be turned over to a city pound or other appropriate state or university agency.

**13.18(2)** For sanitation and safety reasons, ~~pets except as provided below, animals are not permitted in university buildings. Leader dogs and experimental subjects are excepted.~~ This prohibition shall not apply to animals that are:

a. Specially trained for and under the control of an individual with disabilities.

b. Used for teaching and research purposes.

## REGENTS BOARD[681](cont'd)

c. Receiving treatment at the Lloyd Veterinary Medical Center or other approved facility.

**13.18(3)** Pets are permitted on the campus in outdoor areas when properly controlled and confined and when their presence does not jeopardize the safety or sanitation of university facilities or grounds or the safety of individuals on the campus. In the case of pets such as dogs, proper confinement shall consist of a cage or a leash of sufficient strength to restrain the dog held by a person competent to govern the behavior of the dog.

a. Any pets brought on the campus must be properly licensed and vaccinated under the laws of Iowa, and tags indicating such license and vaccination shall at all times be attached to the collar of the pet.

b. In those cases in which impoundment is necessary, the owner of the animal or its claimant shall be personally responsible for all costs associated with reclaiming the animal.

c. Any person who walks an animal on public areas of the campus shall be responsible for the control and behavior of the animal, as well as the prompt collection and disposal of the solid waste excreted by that animal. ~~This rule shall not apply to animals under control of a handicapped person and especially trained for the purpose of assisting handicapped persons.~~

ITEM 15. Amend rule 681—13.19(262) as follows:

**681—13.19(262) Authority to order persons off the campus.** Any person violating university regulations may have the person's permission to remain in or on university premises revoked. A person who does not voluntarily leave, or who immediately returns, is subject to arrest for trespassing under state law. A person who has engaged in serious or repeat violations of university regulations, who has committed crimes, or who has endangered other persons may be banned by the director of public safety or the director's designee from all or part of the campus. Such orders shall be issued in writing. Any person who is subject to such an order may appeal such action to the senior vice president for business and finance, who shall promptly handle the appeal. A person who violates such orders is subject to arrest and prosecution for trespassing.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

July 1, 2012 — July 31, 2012	3.75%
August 1, 2012 — August 31, 2012	3.50%
September 1, 2012 — September 30, 2012	3.50%
October 1, 2012 — October 31, 2012	3.75%
November 1, 2012 — November 30, 2012	3.75%
December 1, 2012 — December 31, 2012	3.75%
January 1, 2013 — January 31, 2013	3.75%
February 1, 2013 — February 28, 2013	3.75%
March 1, 2013 — March 31, 2013	4.00%
April 1, 2013 — April 30, 2013	4.00%
May 1, 2013 — May 31, 2013	4.00%
June 1, 2013 — June 30, 2013	3.75%
July 1, 2013 — July 31, 2013	4.00%

ARC 0820C

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

This amendment decreases premiums for applicants and recipients under the Medicaid for Employed People with Disabilities (MEPD) program with income over 150 percent of the federal poverty level (FPL).

The Department adopted these changes because Iowa Code section 249A.3(2)“a”(1) requires that “[t]he maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees’ group health insurance in this state.” The average cost to the state for state employees’ health insurance for a single person is \$598 effective January 1, 2013. Therefore, the maximum premium must be set at that amount.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin as **ARC 0668C** on April 3, 2013. The Department received no comments from the public concerning the Notice. This amendment is identical to the one published under Notice of Intended Action.

The Council on Human Services adopted this amendment on June 12, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective August 1, 2013. The normal effective date can be waived since this amendment confers a benefit on the public. Specifically, applicants and recipients under the Medicaid for Employed People with Disabilities program who have an income that is under 150 percent of the federal poverty level will benefit with a decrease in premiums to participate.

This amendment does not provide for waivers in specific situations because all members should be subject to the same sliding scale for MEPD premiums. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment will become effective on August 1, 2013.

The following amendment is adopted.

Amend subparagraph **75.1(39)“b”(3)** as follows:

(3) Premiums shall be assessed as follows:

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
150% of Federal Poverty Level	\$34 <u>29</u>
165% of Federal Poverty Level	\$46 <u>39</u>
180% of Federal Poverty Level	\$56 <u>44</u>
200% of Federal Poverty Level	\$66 <u>51</u>
225% of Federal Poverty Level	\$78 <u>56</u>
250% of Federal Poverty Level	\$88 <u>66</u>
300% of Federal Poverty Level	\$108 <u>86</u>
350% of Federal Poverty Level	\$130 <u>106</u>
400% of Federal Poverty Level	\$152 <u>124</u>
450% of Federal Poverty Level	\$174 <u>144</u>
550% of Federal Poverty Level	\$215 <u>182</u>
650% of Federal Poverty Level	\$257 <u>221</u>

## HUMAN SERVICES DEPARTMENT[441](cont'd)

IF THE INCOME OF THE APPLICANT IS ABOVE:	THE MONTHLY PREMIUM IS:
750% of Federal Poverty Level	\$ <del>300</del> <u>262</u>
850% of Federal Poverty Level	\$ <del>344</del> <u>305</u>
1000% of Federal Poverty Level	\$ <del>409</del> <u>369</u>
1150% of Federal Poverty Level	\$ <del>481</del> <u>440</u>
1300% of Federal Poverty Level	\$ <del>574</del> <u>515</u>
1480% of Federal Poverty Level	\$ <del>667</del> <u>598</u>

[Filed Emergency After Notice 6/17/13, effective 8/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0821C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, "Conditions of Eligibility," Iowa Administrative Code.

The purpose of these amendments is to update administrative rules to decrease the average statewide cost of nursing facility services to a private-pay person. The figure is revised to reflect the decrease in the cost of private-pay rates for nursing facility care in Iowa. The change is not related to rates paid by Medicaid for nursing facility care.

The figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the average statewide cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special population facilities in Iowa to update the average statewide cost for nursing facilities. The average private-pay cost of nursing facility services decreased from \$5,131.82 to \$5,057.65.

In addition, these amendments update administrative rules for the average private-pay charges for nursing facility care, which are used to determine the disposition of the income of a medical assistance income trust (MAIT). These amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department's survey for average statewide private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey, since recipients are allowed to use the average cost of the specialized care.

This decrease in the average statewide private-pay charges at nursing facilities may result in fewer individuals who qualify for medical assistance with Miller trusts. However, very few, if any, individuals in nursing facilities will have monthly income between the old and new amounts.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0691C** on April 17, 2013. The Department received no comments from the public concerning the Notice. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 12, 2013.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective July 1, 2013. The normal effective date can be waived since the amendments confer a benefit on the public. Specifically, these amendments decrease the statewide average cost of nursing facility services to a private-pay person.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

These rules do not contain waiver provisions because everyone should be subject to the same amounts set by this rule making. Individuals may request an exception pursuant to the Department's general rule on exceptions to policy at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments became effective July 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 75.23(3) as follows:

**75.23(3) *Period of ineligibility.*** The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2012~~ 2013, through June 30, ~~2013~~ 2014, this average statewide cost shall be ~~\$5,131.82~~ \$5,057.65 per month or ~~\$168.81~~ \$166.37 per day.

ITEM 2. Amend subparagraph **75.24(3)“b”(1)** as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,762~~ \$4,642 per month.

[Filed Emergency After Notice 6/17/13, effective 7/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0822C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The purpose of this amendment is to update administrative rules for the average charges for psychiatric medical institutions for children (PMICs) and mental health institutions (MHIs) and the maximum Medicaid rate for intermediate care facilities for individuals with intellectual disabilities (ICF/IDs), which are used to determine the disposition of the income of a medical assistance income trust (MAIT).

The average charges for PMICs and MHIs are based on Medicaid rates because Medicaid is the primary payer of these services. The Iowa Department of Human Services provided the maximum charge for care in an ICF/ID.

- The average charge for care in a PMIC increased from \$5,472 per month to \$6,111 per month.
- The average charge for care in an MHI increased from \$18,546 per month to \$19,590 per month.
- The maximum Medicaid rate for ICF/ID increased from \$23,801 per month to \$25,922 per month.

The increases in these amounts will allow a few additional individuals to qualify for medical assistance with MAITs because the rule making increases the income limit at which all income assigned to a MAIT is considered to be available for Medicaid eligibility purposes.

Notice of Intended Action on this amendment was published in the Iowa Administrative Bulletin as **ARC 0690C** on April 17, 2013. The Department received no comments from the public concerning the Notice. This amendment is identical to the one published under Notice of Intended Action.

The Council on Human Services adopted this amendment on June 12, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2013. The normal effective date can be waived since the amendment confers a benefit on the public.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Specifically, the average costs and maximum Medicaid rate are increased, thereby allowing additional individuals to qualify for medical assistance with a medical assistance income trust (MAIT).

These rules do not contain waiver provisions because they confer a benefit. Everyone should be subject to the same amounts set by this rule making. Individuals may request an exception pursuant to the Department's general rule on exceptions to policy at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4.

This amendment became effective July 1, 2013.

The following amendment is adopted.

Amend paragraph **75.24(3)“b”** as follows:

*b.* A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2012~~ 2013, to June 30, ~~2013~~ 2014, shall be as follows:

- (1) No change.
- (2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is ~~\$23,801~~ \$25,922 per month.
- (3) The average statewide charge to a resident of a mental health institute is ~~\$18,546~~ \$19,590 per month.
- (4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$5,472~~ \$6,111 per month.
- (5) No change.

[Filed Emergency After Notice 6/17/13, effective 7/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0825C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 170, “Child Care Services,” Iowa Administrative Code.

The purpose of this amendment is to revise the child care assistance (CCA) fee chart based on new federal poverty levels (FPLs). This is an annual update that will allow families that have received raises to maintain eligibility for CCA without paying increased fees.

Notice of Intended Action on this amendment was published as **ARC 0670C** on April 3, 2013, in the Iowa Administrative Bulletin.

The Department received no comments from the public concerning the proposed amendment, but one change from the Notice has been made. During the course of a Departmental review of the amendment, staff found that the values for monthly income found in the examples portion of the rule, specifically paragraphs 170.4(2)“a”(3)“1” to “3,” did not reflect the changes in the rates. Those values were changed to be consistent with the rate increases being adopted.

The Council on Human Services adopted this amendment on June 12, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective July 1, 2013. The normal effective date can be waived since the amendment confers a benefit on the public. The annual poverty level increase will allow families that have received increased income to maintain eligibility for child care assistance without paying increased fees.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

This amendment does not provide for waivers in specified situations because families may request a waiver of these provisions in a specified situation under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 237A.13.

This amendment became effective on July 1, 2013.

The following amendment is adopted.

Amend paragraph **170.4(2)“a”** as follows:

*a. Sliding fee schedule.*

(1) The fee schedule shown in the following table is effective for eligibility determinations made on or after July 1, ~~2012~~ 2013:

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
A	\$884	\$1,198	\$1,511	\$1,825	\$2,138	\$2,452	\$2,765	\$3,079	\$3,392	\$3,706	\$0.00	\$0.00	\$0.00
	\$910	\$1,228	\$1,547	\$1,865	\$2,183	\$2,501	\$2,820	\$3,138	\$3,456	\$3,774			
B	\$931	\$1,261	\$1,591	\$1,921	\$2,251	\$2,581	\$2,911	\$3,241	\$3,571	\$3,901	\$0.20	\$0.45	\$0.70
	\$958	\$1,293	\$1,628	\$1,963	\$2,298	\$2,633	\$2,968	\$3,303	\$3,638	\$3,973			
C	\$957	\$1,296	\$1,636	\$1,975	\$2,314	\$2,653	\$2,993	\$3,332	\$3,671	\$4,010	\$0.45	\$0.70	\$0.95
	\$985	\$1,329	\$1,674	\$2,018	\$2,362	\$2,707	\$3,051	\$3,395	\$3,740	\$4,084			
D	\$983	\$1,332	\$1,680	\$2,029	\$2,377	\$2,726	\$3,074	\$3,422	\$3,771	\$4,119	\$0.70	\$0.95	\$1.20
	\$1,012	\$1,365	\$1,719	\$2,073	\$2,427	\$2,780	\$3,134	\$3,488	\$3,842	\$4,195			
E	\$1,011	\$1,369	\$1,727	\$2,085	\$2,444	\$2,802	\$3,160	\$3,518	\$3,877	\$4,235	\$0.95	\$1.20	\$1.45
	\$1,040	\$1,404	\$1,767	\$2,131	\$2,495	\$2,858	\$3,222	\$3,586	\$3,949	\$4,313			
F	\$1,038	\$1,406	\$1,774	\$2,142	\$2,510	\$2,878	\$3,246	\$3,614	\$3,982	\$4,350	\$1.20	\$1.45	\$1.70
	\$1,068	\$1,442	\$1,815	\$2,189	\$2,563	\$2,936	\$3,310	\$3,683	\$4,057	\$4,430			
G	\$1,067	\$1,446	\$1,824	\$2,202	\$2,580	\$2,959	\$3,337	\$3,715	\$4,094	\$4,472	\$1.45	\$1.70	\$1.95
	\$1,098	\$1,482	\$1,866	\$2,250	\$2,634	\$3,018	\$3,402	\$3,786	\$4,170	\$4,554			
H	\$1,096	\$1,485	\$1,874	\$2,262	\$2,651	\$3,039	\$3,428	\$3,817	\$4,205	\$4,594	\$1.70	\$1.95	\$2.20
	\$1,128	\$1,523	\$1,917	\$2,312	\$2,706	\$3,101	\$3,495	\$3,890	\$4,284	\$4,679			
I	\$1,127	\$1,527	\$1,926	\$2,325	\$2,725	\$3,124	\$3,524	\$3,923	\$4,323	\$4,722	\$1.95	\$2.20	\$2.45
	\$1,160	\$1,565	\$1,971	\$2,376	\$2,782	\$3,187	\$3,593	\$3,998	\$4,404	\$4,810			
J	\$1,158	\$1,568	\$1,978	\$2,389	\$2,799	\$3,210	\$3,620	\$4,030	\$4,441	\$4,851	\$2.20	\$2.45	\$2.70
	\$1,191	\$1,608	\$2,024	\$2,441	\$2,858	\$3,274	\$3,691	\$4,107	\$4,524	\$4,941			
K	\$1,190	\$1,612	\$2,034	\$2,456	\$2,878	\$3,299	\$3,721	\$4,143	\$4,565	\$4,987	\$2.45	\$2.70	\$2.95
	\$1,225	\$1,653	\$2,081	\$2,509	\$2,938	\$3,366	\$3,794	\$4,222	\$4,651	\$5,079			
L	\$1,223	\$1,656	\$2,089	\$2,523	\$2,956	\$3,389	\$3,823	\$4,256	\$4,689	\$5,123	\$2.70	\$2.95	\$3.20
	\$1,258	\$1,698	\$2,138	\$2,578	\$3,018	\$3,458	\$3,897	\$4,337	\$4,777	\$5,217			
M	\$1,257	\$1,702	\$2,148	\$2,593	\$3,039	\$3,484	\$3,930	\$4,375	\$4,821	\$5,266	\$2.95	\$3.20	\$3.45
	\$1,293	\$1,745	\$2,198	\$2,650	\$3,102	\$3,554	\$4,007	\$4,459	\$4,911	\$5,363			
N	\$1,291	\$1,749	\$2,206	\$2,664	\$3,121	\$3,579	\$4,037	\$4,494	\$4,952	\$5,410	\$3.20	\$3.45	\$3.70
	\$1,328	\$1,793	\$2,258	\$2,722	\$3,187	\$3,651	\$4,116	\$4,580	\$5,045	\$5,509			
O	\$1,327	\$1,798	\$2,268	\$2,738	\$3,209	\$3,679	\$4,150	\$4,620	\$5,091	\$5,561	\$3.45	\$3.70	\$3.95
	\$1,366	\$1,843	\$2,321	\$2,798	\$3,276	\$3,753	\$4,231	\$4,709	\$5,186	\$5,664			
P	\$1,363	\$1,847	\$2,330	\$2,813	\$3,296	\$3,780	\$4,263	\$4,746	\$5,229	\$5,712	\$3.70	\$3.95	\$4.20
	\$1,403	\$1,893	\$2,384	\$2,875	\$3,365	\$3,856	\$4,346	\$4,837	\$5,327	\$5,818			
Q	\$1,401	\$1,898	\$2,395	\$2,892	\$3,389	\$3,885	\$4,382	\$4,879	\$5,376	\$5,872	\$3.95	\$4.20	\$4.45
	\$1,442	\$1,946	\$2,451	\$2,955	\$3,459	\$3,964	\$4,468	\$4,972	\$5,477	\$5,981			
R	\$1,440	\$1,950	\$2,460	\$2,971	\$3,481	\$3,991	\$4,501	\$5,012	\$5,522	\$6,032	\$4.20	\$4.45	\$4.70
	\$1,481	\$1,999	\$2,517	\$3,036	\$3,554	\$4,072	\$4,590	\$5,108	\$5,626	\$6,144			
S	\$1,480	\$2,005	\$2,529	\$3,054	\$3,578	\$4,103	\$4,628	\$5,152	\$5,677	\$6,201	\$4.45	\$4.70	\$4.95
	\$1,523	\$2,055	\$2,588	\$3,121	\$3,653	\$4,186	\$4,718	\$5,251	\$5,783	\$6,316			

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Level	Monthly Income According to Family Size										Unit Fee Based on Number of Children in Care		
	1	2	3	4	5	6	7	8	9	10	1	2	3 or more
T	<del>\$1,520</del> <u>\$1,564</u>	<del>\$2,059</del> <u>\$2,111</u>	<del>\$2,598</del> <u>\$2,658</u>	<del>\$3,137</del> <u>\$3,205</u>	<del>\$3,676</del> <u>\$3,753</u>	<del>\$4,215</del> <u>\$4,300</u>	<del>\$4,754</del> <u>\$4,847</u>	<del>\$5,292</del> <u>\$5,394</u>	<del>\$5,831</del> <u>\$5,941</u>	<del>\$6,370</del> <u>\$6,488</u>	\$4.70	\$4.95	\$5.20
U	<del>\$1,563</del> <u>\$1,608</u>	<del>\$2,117</del> <u>\$2,171</u>	<del>\$2,671</del> <u>\$2,733</u>	<del>\$3,225</del> <u>\$3,295</u>	<del>\$3,779</del> <u>\$3,858</u>	<del>\$4,333</del> <u>\$4,420</u>	<del>\$4,887</del> <u>\$4,982</u>	<del>\$5,441</del> <u>\$5,545</u>	<del>\$5,995</del> <u>\$6,107</u>	<del>\$6,549</del> <u>\$6,669</u>	\$4.95	\$5.20	\$5.45
V	<del>\$1,605</del> <u>\$1,652</u>	<del>\$2,174</del> <u>\$2,230</u>	<del>\$2,744</del> <u>\$2,807</u>	<del>\$3,313</del> <u>\$3,385</u>	<del>\$3,882</del> <u>\$3,963</u>	<del>\$4,451</del> <u>\$4,540</u>	<del>\$5,020</del> <u>\$5,118</u>	<del>\$5,589</del> <u>\$5,696</u>	<del>\$6,158</del> <u>\$6,273</u>	<del>\$6,727</del> <u>\$6,851</u>	\$5.20	\$5.45	\$5.70
W	<del>\$1,650</del> <u>\$1,698</u>	<del>\$2,235</del> <u>\$2,292</u>	<del>\$2,820</del> <u>\$2,886</u>	<del>\$3,405</del> <u>\$3,480</u>	<del>\$3,990</del> <u>\$4,074</u>	<del>\$4,575</del> <u>\$4,667</u>	<del>\$5,160</del> <u>\$5,261</u>	<del>\$5,745</del> <u>\$5,855</u>	<del>\$6,330</del> <u>\$6,449</u>	<del>\$6,915</del> <u>\$7,043</u>	\$5.45	\$5.70	\$5.95
X	<del>\$1,695</del> <u>\$1,744</u>	<del>\$2,296</del> <u>\$2,355</u>	<del>\$2,897</del> <u>\$2,965</u>	<del>\$3,498</del> <u>\$3,575</u>	<del>\$4,099</del> <u>\$4,185</u>	<del>\$4,700</del> <u>\$4,795</u>	<del>\$5,301</del> <u>\$5,405</u>	<del>\$5,902</del> <u>\$6,015</u>	<del>\$6,503</del> <u>\$6,625</u>	<del>\$7,104</del> <u>\$7,235</u>	\$5.70	\$5.95	\$6.20
Y	<del>\$1,743</del> <u>\$1,793</u>	<del>\$2,361</del> <u>\$2,420</u>	<del>\$2,978</del> <u>\$3,048</u>	<del>\$3,596</del> <u>\$3,675</u>	<del>\$4,214</del> <u>\$4,302</u>	<del>\$4,832</del> <u>\$4,929</u>	<del>\$5,449</del> <u>\$5,556</u>	<del>\$6,067</del> <u>\$6,183</u>	<del>\$6,685</del> <u>\$6,810</u>	<del>\$7,303</del> <u>\$7,437</u>	\$5.95	\$6.20	\$6.45
Z	<del>\$1,790</del> <u>\$1,842</u>	<del>\$2,425</del> <u>\$2,486</u>	<del>\$3,059</del> <u>\$3,131</u>	<del>\$3,694</del> <u>\$3,775</u>	<del>\$4,329</del> <u>\$4,419</u>	<del>\$4,963</del> <u>\$5,063</u>	<del>\$5,598</del> <u>\$5,707</u>	<del>\$6,232</del> <u>\$6,351</u>	<del>\$6,867</del> <u>\$6,996</u>	<del>\$7,501</del> <u>\$7,640</u>	\$6.20	\$6.45	\$6.70
AA	<del>\$1,840</del> <u>\$1,894</u>	<del>\$2,493</del> <u>\$2,556</u>	<del>\$3,145</del> <u>\$3,218</u>	<del>\$3,797</del> <u>\$3,880</u>	<del>\$4,450</del> <u>\$4,543</u>	<del>\$5,102</del> <u>\$5,205</u>	<del>\$5,754</del> <u>\$5,867</u>	<del>\$6,407</del> <u>\$6,529</u>	<del>\$7,059</del> <u>\$7,192</u>	<del>\$7,711</del> <u>\$7,854</u>	\$6.45	\$6.70	\$6.95
BB	<del>\$1,891</del> <u>\$1,945</u>	<del>\$2,561</del> <u>\$2,626</u>	<del>\$3,231</del> <u>\$3,306</u>	<del>\$3,901</del> <u>\$3,986</u>	<del>\$4,571</del> <u>\$4,666</u>	<del>\$5,241</del> <u>\$5,347</u>	<del>\$5,911</del> <u>\$6,027</u>	<del>\$6,581</del> <u>\$6,707</u>	<del>\$7,251</del> <u>\$7,387</u>	<del>\$7,921</del> <u>\$8,068</u>	\$6.70	\$6.95	\$7.20

(2) No change.

(3) EXAMPLES:

1. Family 1 has two members, monthly income of ~~\$1,100~~ \$1,250, and one child in care. Since the income is at or above the Level A amount but less than the Level B amount, Family 1 pays \$0.00 for each unit of child care service that the child receives.

2. Family 2 has three members, monthly income of ~~\$1,450~~ \$1,650, and one child in care. Since the income is at or above the Level B amount but less than the Level C amount, Family 2 pays \$0.20 for each unit of child care service that the child receives.

3. Family 3 has three members, monthly income of ~~\$1,450~~ \$1,650, and two children in care. The younger child receives ten units of child care service per week. The older child is school-aged and receives only five units of service per week. Since the income is at or above the Level B amount but less than the Level C amount, Family 3 pays \$0.45 for each unit of child care service that the younger child receives.

[Filed Emergency After Notice 6/17/13, effective 7/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0835C****WORKERS' COMPENSATION DIVISION[876]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 86.8, the Workers' Compensation Commissioner hereby amends Chapter 8, "Substantive and Interpretive Rules," Iowa Administrative Code.

This amendment updates references to the tables which determine payroll taxes.

In compliance with Iowa Code section 17A.4(3), the Workers' Compensation Commissioner finds that notice and public participation are unnecessary. Rule 876—8.8(85,17A) is noncontroversial and, further, Iowa Code section 85.61(6) requires adoption of current tables to determine payroll taxes by



## WORKERS' COMPENSATION DIVISION[876](cont'd)

July 1 of each year. The Division must wait until the Internal Revenue Service and the Iowa Department of Revenue determine whether there will be changes in their publications on July 1 of the current year.

The Division also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective June 30, 2013, as it confers a benefit upon the public to ensure speedy and uniform compliance with the Division's legislative mandate.

The Division has determined that this amendment will not necessitate additional annual expenditures exceeding \$100,000 or combined expenditures exceeding \$500,000 within five years by all affected persons, including the agency. Therefore, no fiscal impact statement accompanies this rule making.

The Division has determined that this amendment will have no impact on small business within the meaning of Iowa Code section 17A.4A.

This amendment does not include a waiver provision because rule 876—12.4(17A) provides the specified situations for waiver of Workers' Compensation Division rules.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 85.61(6).

This amendment became effective on June 30, 2013.

The following amendment is adopted.

Amend rule 876—8.8(85,17A) as follows:

**876—8.8(85,17A) Payroll tax tables.** Tables for determining payroll taxes to be used for the period July 1, ~~2012~~ 2013, through June 30, ~~2013~~ 2014, are the tables in effect on ~~July 1, 2012~~ June 30, 2013, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (Internal Revenue Service, Employer's Supplemental Tax Guide, Publication 15-A [~~2012~~ 2013].)

2. Iowa Withholding Tax Guide. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables [Effective April 1, 2006].)

3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer's Tax Guide, Publication 15 [~~2012~~ 2013].)

This rule is intended to implement Iowa Code section 85.61(6).

[Filed Emergency 6/19/13, effective 6/30/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

ARC 0819C

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 7, "Appeals and Hearings," Iowa Administrative Code.

These amendments provide clarification on terminology for actions taken by participating organizations and individuals within the appeals process. Specifically, a prehearing conference can currently be held informally with the local office and the appellant or more formally with an administrative law judge. When changes were made to the rules in Chapter 7 effective February 1, 2013, all references to the informal version with the local office were inadvertently removed. The February 1, 2013, changes made a prehearing conference more specific to a child abuse or Medicaid provider appeal that is held with an administrative law judge with the Iowa Department of Inspections and Appeals. However, local Department offices can also hold a prehearing conference with an appellant before an appeal hearing is held.

To clarify this concept, the informal version of the conference will now be known as an informal conference. Definitions have been added for both "informal conference" and "prehearing conference" so that the two types of conferences are differentiated. Also, these amendments revise rules to include the information that was inadvertently removed.

These amendments also clarify the date the appeal will be considered received if submitted by an electronic delivery method. As the volume of documents that are submitted electronically continues to grow, it is best to document within the rules how the date received is determined.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0671C** on April 3, 2013.

The Department received comments from one respondent. The respondent commented that in subrule 7.8(4), the proposed amendments state that a prehearing conference shall be held with the appellant, a representative of the Department, and a presiding officer as soon as possible after the appeal has been filed. The respondent asserted that the proposed amendments appear to infer that a prehearing conference would apply to all contested cases before the Department and that all individuals must have a prehearing conference.

Also, the respondent commented on the Department's current rules regarding motions to intervene for child abuse appeals. In subrule 7.14(2), the Department's rules indicate that subjects who file a motion to intervene in a child abuse appeal will have the opportunity to appear at the prehearing conference. Any motion to intervene shall be considered by the administrative law judge at the prehearing conference.

The respondent indicated there is a problem with this approach because the person filing the motion to intervene does not have party status at the time of the prehearing conference, so the person does not have the right to participate in discussions or to object to any settlement. The respondent proposed that the Department eliminate the requirement that a motion to intervene be discussed at the prehearing conference.

The Department responded that a prehearing conference can be held informally with the local office and the appellant or more formally with the administrative law judge. As noted above, when changes were made to Chapter 7 effective February 1, 2013, all references to the informal version with the local office were inadvertently removed. The February 1, 2013, changes made a prehearing conference more specific to a child abuse or Medicaid provider appeal that is held with an administrative law judge with the Iowa Department of Inspections and Appeals. However, local DHS offices also can hold a prehearing conference with an appellant before an appeal hearing is held.

With these amendments, the informal version will now be known as an informal conference. Definitions have been added for "informal conference" and for "prehearing conference" so the concepts can be differentiated. The amendments also include the information that was erroneously removed.

As part of the comment review, other state agencies' rules were reviewed. Each state agency has a rule regarding prehearing conferences and a provision that any party may request a prehearing conference.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Based on this review, the Department has amended the introductory paragraph of subrule 7.8(4) in Item 6 to change the term “shall” to “may.” The introductory paragraph now reads as follows:

**“7.8(4) Prehearing conference.** When requested by the appellant or department, a prehearing conference may be held with the appellant, a representative of the department and a presiding officer as soon as possible after the appeal has been filed. An appellant’s representative shall be allowed to attend and participate in the prehearing conference, unless precluded by federal rule or state statute.”

As the comment relating to informal conferences is not directly related to the changes in this rule making, the Department will take the respondent’s comment under advisement and may amend the relative portion of the rules with a future rule making.

The Council on Human Services adopted these amendments on June 12, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 217.6.

These amendments will become effective September 1, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions in rule **441—7.1(17A)**:

**“Informal conference”** means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, and a representative of the department. The purpose of the informal conference is to provide information as to the reasons for the intended adverse action, to answer questions, to explain the basis for the adverse action, to provide an opportunity for the appellant to explain the appellant’s action or position, and to provide an opportunity for the appellant to examine the contents of the case record including all documents and records to be used by the department at the hearing in accordance with 441—Chapter 9.

**“Prehearing conference”** means a type of meeting between the appellant and the appellant’s representative, unless precluded by federal law or state statute, a representative of the department and a presiding officer. The purpose of the prehearing conference is to discuss the appealed issue, to inquire as to the potential for voluntary settlement, to establish the hearing date, to establish the location of the hearing including whether the hearing will be by telephone or in person, and to discuss procedural matters relevant to the case.

ITEM 2. Amend subrule 7.5(5) as follows:

**7.5(5) Informal settlements.** The time limit for submitting an appeal is not extended while attempts at informal settlement are in progress. ~~Prehearing conferences are provided for at subrules 7.7(4) and 7.8(4).~~

ITEM 3. Rescind and reserve subrule **7.7(4)**.

ITEM 4. Amend subrule 7.8(2) as follows:

**7.8(2) Filing the appeal.** The appellant shall be encouraged, but not required, to make written appeal on Form 470-0487 or 470-0487(S), Appeal and Request for Hearing, and the worker shall provide any instructions or assistance required in completing the form. When the appellant is unwilling to complete or sign this form, nothing in this rule shall be construed to preclude the right to perfect the appeal, as long as the appeal is in writing (except for food assistance appeals) and has been communicated to the department by the appellant or appellant’s representative.

A written appeal is filed on the date postmarked on the envelope sent to the department, or, when the postmarked envelope is not available, on the date the appeal is stamped received by the agency. When an appeal is submitted through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile, the appeal is filed on the date it is submitted. The electronic delivery method shall record the date and time the appeal request was submitted. If there is no date recorded by the electronic delivery method, the date of filing is the date the appeal is stamped received by the agency. Receipt date of all appeals shall be documented by the office where the appeal is received.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 5. Adopt the following **new** subrule 7.8(3):

**7.8(3) Informal conference.** When requested by the appellant, an informal conference with a representative of the department shall be held as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the informal conference, unless precluded by federal rule or state statute.

An informal conference need not be requested for the appellant to have access to the records as provided in subrule 7.13(1) and 441—Chapter 9.

ITEM 6. Amend subrule 7.8(4) as follows:

**7.8(4) Prehearing conference.** When requested by the appellant or department, a prehearing conference ~~with a representative of the local office or the office which took the action appealed shall~~ may be held with the appellant, a representative of the department and a presiding officer as soon as possible after the appeal has been filed. An appellant's representative shall be allowed to attend and participate in the prehearing conference, unless precluded by federal rule or state statute.

~~The purpose of the prehearing conference is to discuss the appealed issue, to inquire as to voluntary settlement potential, to establish the hearing date, to establish the location of the hearing including whether the hearing will be by telephone or in person, and to discuss procedural matters relevant to the case.~~

ITEM 7. Amend subrule 7.8(5) as follows:

**7.8(5) Interference.** ~~The~~ Neither an informal conference nor a prehearing conference shall not be used to discourage appellants from proceeding with their appeals. The right of appeal shall not be limited or interfered with in any way, even though the person's complaint may be without basis in fact, or because of the person's own misinterpretation of law, agency policy, or methods of implementing policy.

[Filed 6/17/13, effective 9/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0823C**

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," and Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The purposes of these amendments are to:

- Provide clarifying language.
- Rename "augmentative communication device" as "speech generating device" and reclassify the device from the prosthetics category to the medical equipment category consistent with Medicare classification.
- Reclassify oral nutrition from the prosthetics category to the medical supply category consistent with the classification in the healthcare common procedure coding system (HCPCS).
- Add coverage for bath chairs, nonstandard patient lifters, power wheelchair attendant control, a secondary ventilator, and wheelchairs for members in an intermediate care facility for persons with an intellectual disability.
- Lower the age limit for incontinence products from four years of age to three years of age.
- Allow for reimbursement over the established Medicaid fee schedule amounts for some items.
- Add a prior authorization requirement for shower commode chairs.

Exceptions to policy have routinely been granted according to established criteria for bath chairs, nonstandard patient lifters, power wheelchair attendant control, a secondary ventilator, wheelchairs for members in an intermediate care facility for persons with an intellectual disability, incontinence products

## HUMAN SERVICES DEPARTMENT[441](cont'd)

for children between three and four years of age, and reimbursement over established Medicaid fee schedule amounts.

Given the complex coverage criteria and the cost for a shower commode chair, authorization prior to the delivery of this item is more efficient than review of a submitted claim.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0649C** on March 20, 2013. The Department received no comments from the public concerning the Notice. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 12, 2013.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective on September 1, 2013.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.10, 78.28, 79.1(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 0649C**, IAB 3/20/13.

[Filed 6/17/13, effective 9/1/13]

[Published 7/10/13]

[For replacement pages for IAC, see IAC Supplement 7/10/13.]

**ARC 0824C****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Iowa Administrative Code.

The purpose of these amendments is to comply with current federal regulations and to provide for administrative simplification for both the Department and for Medicaid providers that wish to participate in this program. These amendments implement the following changes:

1. Set the previous hospital year as the base year for calculating the hospital incentive payment.
2. Permit an alternate option for children's hospitals to participate, using a specially assigned number by the Centers for Medicare and Medicaid Services (CMS).
3. Clarify and update the application, agreement and payment processes, including that dually eligible hospitals will report to CMS.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin as **ARC 0669C** on April 3, 2013. The Department received no comments from the public concerning the Notice. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on June 12, 2013.

These amendments do not provide for waivers in specified situations because these rules are consistent for all eligible providers and hospitals in accordance with federal law. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective on September 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 79.16(1) as follows:

**79.16(1) State elections.** In addition to the statutory provisions in ARRA Section 4201, the electronic health record incentive program is governed by federal regulations at 42 CFR Part 495 as published in the

## HUMAN SERVICES DEPARTMENT[441](cont'd)

~~Federal Register, Vol. 75, No. 144, on July 28, 2010~~ as amended to September 4, 2012. In compliance with the requirements of federal law, the department establishes the following state options under the Iowa electronic health record incentive program:

a. For purposes of the term “hospital-based eligible professional (EP)” as set forth in 42 CFR Section 495.4 as amended to ~~July 28, 2010~~ September 4, 2012, the department elects the calendar year preceding the payment year as the period used to ~~calculate~~ gather data to determine whether or not an eligible professional is “hospital-based” for purposes of the regulation.

b. For purposes of calculating patient volume as required by 42 CFR Section 495.306 as amended to ~~July 28, 2010~~ September 4, 2012, ~~the department has elected that~~ eligible providers may ~~elect to~~ use either:

(1) The patient encounter methodology found in 42 CFR Section 495.306(c) as amended to ~~July 28, 2010~~ September 4, 2012, or

(2) The patient panel methodology found in 42 CFR Section 495.306(d) as amended to ~~July 28, 2010~~ September 4, 2012.

c. For purposes of 42 CFR Section 495.310(g)(1)(i)(B) as amended to ~~July 28, 2010~~ September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

d. For purposes of 42 CFR Section 495.310(g)(2)(i) as amended to ~~July 28, 2010~~ September 4, 2012, the “12-month period selected by the state” shall mean the hospital fiscal year.

ITEM 2. Amend paragraph **79.16(2)“b”** as follows:

b. The provider must be one of the following:

(1) No change.

(2) An acute care hospital, ~~defined as a health care facility where the average length of stay is 25 days or fewer, which has a CMS certification number with the last four digits in the series 0001-0879 or 1300-1399~~ as defined in 42 CFR Section 495.302 as amended to September 4, 2012.

(3) A children’s hospital, ~~defined as a separately certified children’s hospital, either freestanding or a hospital within hospital, that predominately treats individuals under 21 years of age and has a CMS certification number with the last four digits in the series 3300-3399~~ as defined in 42 CFR Section 495.302 as amended to September 4, 2012.

ITEM 3. Amend subparagraph **79.16(2)“c”(2)** as follows:

(2) An eligible professional must have at least 30 percent of the professional’s patient volume ~~covered by~~ enrolled in Medicaid, except that:

1. A pediatrician must have at least 20 percent Medicaid patient volume. For purposes of this subrule, a “pediatrician” is a physician who is board-certified in pediatrics by the American Board of Pediatrics or the American Osteopathic Board of Pediatrics or who is eligible for board certification.

2. When a professional has at least 50 percent of patient encounters in a federally qualified health center or rural health clinic, patients who were furnished services either at no cost or at a reduced cost based on a sliding scale or ability to pay, patients covered by the HAWK-I program, and Medicaid members may be counted to meet the 30 percent threshold.

ITEM 4. Amend subrule 79.16(3) as follows:

**79.16(3) Application and agreement.** Any eligible provider ~~who wants that~~ intends to participate in the Iowa electronic health record incentive program must declare the intent to participate by registering with the ~~National Level Repository~~ CMS Registration and Attestation Web site, as developed by the Centers for Medicare and Medicaid Services (CMS). CMS will notify the department of an eligible provider’s application for the incentive payment.

a. Upon receipt of an application for participation in the program, the department will contact the applicant with instructions for accessing the Iowa EHR Medicaid incentive payment program section of the Iowa Medicaid portal access (IMPA) administration Web site at ~~https://secureapp.dhs.state-ia.us/imp/~~ www.imeincentives.com. The applicant shall use the Web site to:

(1) Attest to the applicant’s qualifications to receive the incentive payment, and

(2) Digitally sign Form 470-4976, Iowa Electronic Health Record Incentive Program Provider Agreement.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

b. For the second year of participation, ~~the eligible provider~~ providers must submit meaningful use and clinical quality measures to the department, either through attestation or electronically as required by the department.

c. No change.

ITEM 5. Amend subrule 79.16(4) as follows:

**79.16(4) Payment.** The department shall issue the incentive payment only after confirming that all eligibility and performance criteria have been satisfied. Payments will be processed and paid to the tax identification number designated by the applicant. The department will communicate the payment or denial of payment to the ~~National Level Repository~~ CMS Registration and Attestation Web site.

a. The primary communication channel from the department to the provider will be the ~~IMPA Iowa EHR Medicaid incentive payment administration~~ Web site. If the department finds that the applicant is ineligible or has failed to achieve the criteria necessary for the payment, the department shall notify the provider through the Web site. Providers shall access the Web site to determine the status of their payment, including whether the department denied payment and the reason for the denial.

b. No change.

[Filed 6/17/13, effective 9/1/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0826C**

**IOWA FINANCE AUTHORITY[265]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5(1)“m,” the Iowa Finance Authority hereby amends Chapter 9, “Title Guaranty Division,” Iowa Administrative Code.

The purpose of this amendment is to allow the title guaranty director to approve an individual or organization to perform the inspection of the title plants seeking provisional waivers of the requirements of Iowa Code section 16.92(5) and to clarify the process of the inspection and certification of the title plant.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 3, 2013, as **ARC 0682C**. The Authority received public comment on the proposed amendment, and made one change to the amendment based on those comments by substituting the word “verification” for “certification.”

The Iowa Finance Authority adopted this amendment on June 5, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 16.92(5)“b.”

This amendment will become effective on August 14, 2013.

The following amendment is adopted.

Amend subrule 9.7(10) as follows:

**9.7(10) Title plant certification.** For applicants granted a provisional waiver, an inspection of the title plant shall be performed by division staff or a designee of the title guaranty director. The inspection shall determine if the title plant meets the criteria set forth in paragraph 9.6(4)“a” and shall occur before the ~~division staff shall inspect the title plant and certify to the division board that the title plant is complete before the board may grant grants~~ up-to-date title plant status to the applicant. Upon certification If the applicant, following verification of up-to-date title plant status by the division board, proposes to conduct business under a name other than that of the entity to which the provisional waiver was granted, the applicant must obtain prior written approval to do so from the division to conduct business under a

IOWA FINANCE AUTHORITY[265](cont'd)

~~name other than the entity to which the provisional waiver was granted.~~ Any transfer of a title plant must be approved by division staff in order for the title plant to be a title guaranty abstractor.

[Filed 6/17/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0827C**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r,” and 16.5(1)“m,” the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of this amendment is to simplify the requirements for using a non-IFA loan in conjunction with the assistance provided under the program and to rescind obsolete language.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 3, 2013, as **ARC 0683C**. The Authority received no public comment on the proposed amendment. This amendment is identical to that published under Notice of Intended Action.

The Iowa Finance Authority adopted this amendment on June 5, 2013.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 16.54.

This amendment will become effective on August 14, 2013.

The following amendment is adopted.

Amend subrule 27.3(2) as follows:

#### **27.3(2) *Financed home purchases.***

*a.* In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's home buyer mortgage programs if the service member qualifies for it, unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless. If the service member does not qualify for one of the authority's home buyer mortgage programs, another permanent, fully amortizing mortgage loan is available if the service member does not qualify for one of the authority's home buyer mortgage programs may be used.

*b. to d.* No change.

~~*e.*—A service member who was otherwise eligible for the program and closed on a home on or after July 1, 2008, and prior to July 1, 2010, but who was ineligible for assistance under the program during that time due to the fact that the service member purchased a home with financing from a lender that was not a participating lender in the authority's home buyer programs, may retroactively receive assistance under the program provided that:~~

~~(1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority's home buyer programs at the time the service member closed on the service member's mortgage loan;~~

~~(2) The service member and the service member's lender provide all documentation as required by paragraphs “b” through “d,” above; and~~

~~(3) The financing lender becomes a facilitating lender pursuant to 27.3(7).~~

[Filed 6/17/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.



**ARC 0828C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.5, 481A.6, and 481A.39, the Natural Resource Commission hereby amends Chapter 52, "Wildlife Refuges," Iowa Administrative Code.

Chapter 52 contains the regulations for establishing wildlife refuges for the purpose of preserving biological balance and for promoting sound wildlife management. Hunting is not permitted in refuges so as to create a de facto safe zone for the wildlife. This amendment removes two areas that are no longer needed as waterfowl refuges because there are enough refuges in the general area without them. The high number of refuges in the area prevented any one of them from being as effective as planned. The areas delisted are Three Mile Lake in Union County and Lake Sugema in Van Buren County. Importantly, the two areas removed will remain public lands open for recreation, including hunting.

In addition, the amendment adds a new waterfowl refuge known as Union Hills in Cerro Gordo County. This new refuge is needed to encourage the growth of waterfowl in this area of the state of Iowa. This area is already state land currently under Department management. A small portion of this area is being redesignated from a wildlife management area to a waterfowl refuge.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 1, 2013, as **ARC 0720C**. A public hearing was held on May 23, 2013. Seven comments were received from the public during the comment period, and all but one supported the proposed change. No changes were made from the Notice.

The amendment will have a positive effect on jobs by increasing opportunities for waterfowl hunting and viewing in Union, Cerro Gordo, and Van Buren Counties. Since waterfowl hunters frequently travel the entire state to enjoy different locations and zone-specific dates, the waterfowl hunting opportunities created in these specific counties will be enjoyed by hunters statewide. Waterfowl hunting benefits local economies and associated jobs, through equipment retailers, guide services, transportation services, and restaurants.

This amendment is intended to implement Iowa Code sections 455A.5(6), 481A.5, 481A.6, and 481A.39.

This amendment will become effective on August 14, 2013.

The following amendment is adopted.

Amend subrule 52.1(3) as follows:

**52.1(3) *Waterfowl refuges.*** The following areas under the jurisdiction of the department of natural resources are established as waterfowl refuges where posted. It shall be unlawful to hunt ducks and geese on the following areas, where posted, at any time during the year. It shall be unlawful to trespass in any manner on the following areas, where posted, during the dates posted, both dates inclusive, except that department personnel, law enforcement officials, and other persons specifically authorized by the department of natural resources may enter the area at any time in performance of their duties, and hunters, under the supervision of department staff, may enter the area when specifically authorized by the department of natural resources.

Area	County
Lake Icaria .....	Adams
Pool Slough Wildlife Area .....	Allamakee
Rathbun Area .....	Appanoose, Lucas, Wayne
Sedan Bottoms .....	Appanoose
Sweet Marsh .....	Bremer
Big Marsh .....	Butler
<u>Union Hills</u> .....	<u>Cerro Gordo</u>
Ventura Marsh .....	Cerro Gordo
Round Lake .....	Clay
Jemmerson Slough Complex .....	Dickinson

## NATURAL RESOURCE COMMISSION[571](cont'd)

Forney Lake .....	Fremont
Riverton Area .....	Fremont
Dunbar Slough .....	Greene
Bays Branch .....	Guthrie
Crystal Hills .....	Hancock
Eagle Flats .....	Hancock
Eagle Lake .....	Hancock
Green Island Area .....	Jackson
Muskrat Slough .....	Jones
Red Rock Area .....	Marion, Polk, Warren
Badger Lake .....	Monona
Chichaqua Area .....	Polk
McCausland .....	Scott
Princeton Area .....	Scott
Otter Creek Marsh .....	Tama
Three Mile Lake .....	Union
Lake Sugema .....	Van Buren
Rice Lake Area .....	Winnebago
Snyder Bend Lake .....	Woodbury
Elk Creek Marsh .....	Worth

[Filed 6/18/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0829C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 481A.38, 481A.39, 481A.48, and 455A.5(6), the Natural Resource Commission hereby amends Chapter 100, "Crow and Pigeon Regulations," Iowa Administrative Code.

Chapter 100 contains the regulations for hunting crows and pigeons. This amendment allows pigeons to be taken year round as studies show the population can withstand this change. The practical effect of the amendment is that dove hunters will be able to shoot a pigeon while hunting doves. Currently, pigeons cannot be shot with a firearm, the weapon of choice for hunting doves, during the majority of the dove season. Dove season is from September 1 through November 9, and pigeons can only be shot with a firearm beginning October 1.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 1, 2013, as **ARC 0719C**. A public hearing was held on May 23, 2013. Ten comments were received from the public during the comment period, and most supported the proposed change in the season. No changes were made from the Notice.

After analysis and review of this rule making, no impact on private sector jobs has been found.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.48.

This amendment will become effective on August 14, 2013.

The following amendment is adopted.

Amend subrule 100.2(1) as follows:

**100.2(1)** Pigeon season. There is a continuous open season for the taking of pigeons ~~except the season for taking pigeons with firearms shall be October 1 to March 31. However, within 100 yards of~~

## NATURAL RESOURCE COMMISSION[571](cont'd)

~~buildings and bridges pigeons may be taken with firearms the year around.~~ No bag or possession limit.  
Entire state open.

[Filed 6/18/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0830C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B, the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Chapter 106 sets regulations for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

This amendment reduces antlerless deer quota numbers in six counties in the Nishnabotna Wildlife Unit. This quota reduction is designed to stabilize deer numbers in those counties whose deer population has been reduced to levels that were agreed to in 2009 by the Deer Study Advisory Group (DSAG). The DSAG was created to review, analyze, and make recommendations on issues relating to the state's deer population.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 1, 2013, as **ARC 0717C**. A public hearing was held on May 23, 2013. Sixteen comments were received from the public during the comment period, and all but two supported the proposed changes in the antlerless deer quotas. One change has been made from the Notice. Wording was added to clarify that the quotas are for the 2013 deer season.

This amendment will have a neutral impact on jobs in the state. Even though the Commission is adopting a license reduction, there should not be a noticeable change in deer hunting. The new quotas are designed to keep deer numbers stable and result in similar license sales overall. Thus, the private sector job impact should remain status quo even with this rule making. The following types of jobs are positively impacted by deer hunting generally (and should see no noticeable change due to this rule making): hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B.

This amendment will become effective on August 14, 2013.

The following amendment is adopted.

Amend subrule 106.6(6) as follows:

**106.6(6) Antlerless-deer-only licenses.** Paid antlerless-deer-only licenses will be available by county for the 2013 deer season as follows:

County	Quota	County	Quota	County	Quota
Adair	2400	Floyd	0	Monona	2500
Adams	1950	Franklin	0	Monroe	3000
Allamakee	4500	Fremont	<del>1500</del> <u>600</u>	Montgomery	<del>1300</del> <u>1050</u>
Appanoose	3300	Greene	150	Muscatine	1175
Audubon	100	Grundy	0	O'Brien	0
Benton	650	Guthrie	3300	Osceola	0

## NATURAL RESOURCE COMMISSION[571](cont'd)

County	Quota	County	Quota	County	Quota
Black Hawk	0	Hamilton	100	Page	<del>1800</del> <u>950</u>
Boone	650	Hancock	0	Palo Alto	0
Bremer	1000	Hardin	200	Plymouth	100
Buchanan	250	Harrison	2500	Pocahontas	0
Buena Vista	0	Henry	1025	Polk	1500
Butler	0	Howard	350	Pottawattamie	<del>2400</del> <u>1300</u>
Calhoun	0	Humboldt	0	Poweshiek	500
Carroll	100	Ida	0	Ringgold	2600
Cass	<del>1300</del> <u>550</u>	Iowa	775	Sac	0
Cedar	1025	Jackson	1250	Scott	500
Cerro Gordo	0	Jasper	1700	Shelby	400
Cherokee	0	Jefferson	2150	Sioux	0
Chickasaw	450	Johnson	1400	Story	500
Clarke	2500	Jones	975	Tama	500
Clay	0	Keokuk	1900	Taylor	2650
Clayton	3200	Kossuth	0	Union	2100
Clinton	825	Lee	1400	Van Buren	5400
Crawford	300	Linn	1300	Wapello	2150
Dallas	2700	Louisa	850	Warren	4200
Davis	3600	Lucas	2800	Washington	2250
Decatur	2800	Lyon	0	Wayne	3000
Delaware	975	Madison	4000	Webster	100
Des Moines	900	Mahaska	1350	Winnebago	0
Dickinson	0	Marion	2250	Winneshiek	3500
Dubuque	1375	Marshall	500	Woodbury	2500
Emmet	0	Mills	<del>1350</del> <u>950</u>	Worth	0
Fayette	1650	Mitchell	0	Wright	0

[Filed 6/18/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**ARC 0831C****NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, 481A.90, and 455A.5(6), the Natural Resource Commission hereby amends Chapter 108, "Mink, Muskrat, Raccoon, Badger, Opossum, Weasel, Striped Skunk, Fox (Red and Gray), Beaver, Coyote, River Otter, Bobcat, Gray (Timber) Wolf and Spotted Skunk Seasons," Iowa Administrative Code.

Chapter 108 sets the season dates, bag limits, possession limits and areas open to the hunting or trapping of furbearers. The amendments add six counties to the open area for bobcats and remove the statewide quotas for bobcats and river otters. These amendments allow the season for river otters and bobcats to run concurrently with the other furbearer seasons. Since there will no longer be a quota, the 24-hour reporting requirement will no longer be needed. However, federal regulations require that a CITES tag must still be obtained for each bobcat and river otter harvested. These amendments reduce

## NATURAL RESOURCE COMMISSION[571](cont'd)

the number of river otters a fur harvester may take during the season from three to two to prevent the taking of too many river otters in any one area. Populations of these furbearers are at a level that will sustain this additional level of harvest and allow Iowa's hunters and trappers additional opportunities without negatively impacting these populations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 1, 2013, as **ARC 0718C**. A public hearing was held on May 23, 2013. Twenty comments were received from the public during the comment period, and most supported the proposed changes in the seasons. One change has been made from the Notice. Wording was added in Item 2 to clarify that otters and bobcats taken outside of the closed season or in excess of the seasonal bag limit must be turned over, without penalty, to the DNR.

These amendments are expected to have a positive impact on jobs by increasing overall trapping activity. By the elimination of statewide quotas, trappers will be able to actually take bobcats and river otters each season. In the past, the quotas filled up quickly, and many trappers who had purchased licenses were not actually able to take a bobcat or river otter because the statewide quota was filled, even if their personal season limit was not yet met. Eliminating these quotas is consistent with sound wildlife management principles and allows fur harvesters more flexibility. For example, trappers will be able to take furbearers later in the season when their pelts are more valuable. In addition, six additional counties have been added for the trapping of bobcats. This will increase trapping activities in these counties. This likely means increased business for the private sector in the following areas: sale of hunting and trapping gear and other related equipment and taxidermy work. It could also lead to increased business for restaurants, hotels, and gas stations as people move around the state participating in the sport.

These amendments are intended to implement Iowa Code sections 481A.6, 481A.38, 481A.39, 481A.87, and 481A.90.

These amendments will become effective on August 14, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 108.7(2) as follows:

**108.7(2) *Open area.*** River otters may be taken statewide. Bobcats may be taken in the following counties: Adair, Adams, Appanoose, Audubon, Cass, Clarke, Crawford, Dallas, Davis, Decatur, Des Moines, Fremont, Guthrie, Harrison, Henry, Iowa, Jefferson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monona, Monroe, Montgomery, Muscatine, Page, Pottawattamie, Poweshiek, Ringgold, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, and Woodbury.

ITEM 2. Amend subrule 108.7(3) as follows:

**108.7(3) ~~Quotas and seasonal~~ Seasonal bag limit.**

*a. Seasonal bag limit.* The seasonal bag limit is 3 2 river otters and 1 bobcat per person.

*b. Quotas.* ~~The quota for the number of river otters that may be taken is 850 statewide. The quota for the number of bobcats that may be taken is 450 in the open area. The season shall end for river otters when the number of river otters trapped, as determined by the harvest reporting system, reaches the quota. The season shall end for bobcats when the number of bobcats taken, as determined by the harvest reporting system, reaches the quota. Trappers shall be allowed a grace period that ends on midnight of the day after the quota is reached to clear their traps of river otters or bobcats. River otters or bobcats found in traps during the grace period may be kept even though the quota is exceeded provided that the trapper has not reached the trapper's personal bag limit. River otters or bobcats trapped after the grace period or in excess of the seasonal bag limit or in a closed area must be turned over to the department; the trapper shall not be penalized.~~

ITEM 3. Amend subrule 108.7(4) as follows:

**108.7(4) *Season dates.*** The season for taking river otters and bobcats opens on the first Saturday in November and closes ~~when the quota has been reached, as explained in this rule, or on January 31 of the following year, whichever occurs first.~~

ITEM 4. Amend subrule 108.7(5) as follows:

**108.7(5) *Reporting requirements.***

## NATURAL RESOURCE COMMISSION[571](cont'd)

~~a.~~ Anyone, including a landowner or tenant not required to have a fur harvester license, who takes a river otter or bobcat must report the harvest to a DNR conservation officer or designated DNR employee within 24 hours. ~~The fur harvester must and~~ arrange to receive a CITES tag from the officer or designated DNR employee within seven days of ~~the time the harvest is reported.~~ The river otter or bobcat shall be skinned and ~~the carcass~~ its lower jaw or skull turned over to the DNR conservation officer or designated DNR employee at the time the CITES tag is issued. If the specimen is to be kept whole for taxidermy purposes, a cut shall be made by the trapper between the gum line and eye so the CITES tag can be attached to the skin. ~~It shall be the responsibility of the taxidermist to have the carcass turned over to a DNR conservation officer or designated DNR employee once that animal has been skinned for taxidermy purposes.~~

~~b.~~ Upon receiving a telephone report that a river otter or bobcat has been legally taken, the conservation officer or DNR employee will call the department's harvest reporting system. The number of river otters and bobcats taken will be updated daily, and a message will be recorded on the department's telephone system. The number taken will be available 24 hours a day. Fur harvesters may check the message daily to determine when the season closes and when the grace period begins and ends. The department will use all practical means to publicize these dates.

[Filed 6/18/13, effective 8/14/13]

[Published 7/10/13]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/10/13.

**FEMA-4119-DR-IA**

The U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse State and local governments and agencies, and eligible private non-profit organizations for eligible costs incurred to repair and/or replace facilities damaged by severe storms, straight-line winds, and flooding occurring from April 17-30, 2013. This notice applies to the Public Assistance (PA) and Hazard Mitigation Grant (HMGP) programs implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC §§ 5121-5207, as amended.

Under a major disaster declaration (FEMA-4119-DR-IA) signed by the President on May 31, 2013, the following counties in the State of Iowa have been designated adversely affected by the disaster and are eligible for PA only: Appanoose, Cedar, Clinton, Davis, Decatur, Des Moines, Iowa, Jefferson, Johnson, Keokuk, Lee, Lucas, Marion, Monroe, Muscatine, Ringgold, Van Buren, Wapello, Warren, and Wayne. All counties in the State of Iowa are eligible for HMGP. There are no Counties declared for Individual Assistance.

This public notice concerns public assistance activities that may affect historic properties, activities that are located in or affect wetland areas or the 100-Year Floodplain (areas determined to have a one percent probability of flooding in any given year), and critical actions within the 500-Year Floodplain. Such activities may adversely affect the historic property, floodplain or wetland, or may result in continuing vulnerability to flood damage.

Such activities may include restoring facilities located in a floodplain with eligible damage to pre-disaster condition. Examples of such activities include, but are not limited to, the following:

1. Non-emergency debris removal and disposal;
2. Non-emergency protective measures;
3. Repair/replacement of roads, including streets, culverts, and bridges;
4. Repair/replacement of public dams, reservoirs and channels;
5. Repair/replacement of public buildings and related equipment;
6. Repair/replacement of public water control facilities, pipes and distribution systems;
7. Repair/replacement of public utilities, including sewage treatment plants, sewers and electrical power distribution systems; and
8. Repair/replacement of eligible private, non-profit facilities (hospitals, educational centers, emergency and custodial care services, etc.).

The President's Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands, requires that all Federal actions in or affecting the 100-Year floodplain or wetland areas be reviewed for opportunities to move the facility out of the floodplain or wetland and to reduce the risk of future damage or loss from flooding and minimize harms to wetlands. However, FEMA has determined that in certain situations, there are no alternatives to restoring an eligible facility located in the floodplain to its pre-disaster condition. These situations meet all of the following criteria:

1. The FEMA estimated cost of repairs is less than 50 percent of the estimated cost to replace the facility and the replacement cost of the facility is less than \$100,000.
2. The facility is not located in a floodway or coastal high hazard area.
3. The facility has not sustained structural damage in a previous presidentially declared flood disaster or emergency.
4. The facility is not defined as critical (e.g., hospital, generating plant, contains dangerous materials, emergency operation center, etc.).

FEMA will provide assistance to restore the facilities described above to their pre-disaster condition except when measures to mitigate the effects of future flooding may be incorporated into the restoration work. For example, insufficient waterway openings under culverts and bridges may cause water back up to wash out the structures. The water back up could wash out the facility and could damage other facilities in the area. Increasing the size of the waterway opening would mitigate, or lessen, the potential

for this damage. Additional examples of mitigation measures include providing erosion protection at bridge abutments or levees, and extending entrance tubes on sewage lift stations.

Disaster assistance projects to restore facilities, which do not meet the criteria listed above, must undergo a detailed review. The review will include a study to determine if the facility can be moved out of the floodplain. The public is invited to participate in the review. The public may identify alternatives for restoring the facility and may participate in analyzing the impact of the alternatives on the facility and the floodplain. An address and phone number for obtaining information about specific assistance projects is provided at the end of this Notice. The final determination regarding the restoration of these facilities in a floodplain will be announced in future Public Notices.

Due to the urgent need for and/or use of the certain facilities in a floodplain, actions to restore the facility may have started before the Federal inspector visits the site. Some of these facilities may meet the criteria for a detailed review to determine if they should be relocated. Generally, facilities may be restored in their original location where at least one of the following conditions applies:

1. The facility, such as a flood control device or bridge, is functionally dependent on its floodplain location.
2. The facilities, such as a park or other open-use space, already represent sound floodplain management and, therefore, there is no need to change it.
3. The facility, such as a road or a utility, is an integral part of a larger network that could not be relocated economically.
4. Emergency action is needed to address a threat to public health and safety.

The effects of not relocating the facilities will be examined. In each case, the examination must show an overriding public need for the facility at its original location that clearly outweighed the requirements in the Executive Order to relocate the facility out of the floodplain. FEMA will also consult State and local officials to make certain that no actions taken will violate either State or local floodplain protection standards. The restoration of these facilities may also incorporate certain measures designed to mitigate the effects of future flooding. This will be the only Notice to the public concerning these facilities.

The National Historic Preservation Act requires federal agencies to take into account the effects of their undertakings on historic properties. Those actions or activities affecting buildings, structures, districts or objects 50 years or older or that affect archeological sites or undisturbed ground will require further review to determine if the property is eligible for listing in the National Register of Historic Places (Register). If the property is determined to be eligible for the Register, and FEMA's undertaking will adversely affect it, FEMA will provide additional public notices. For historic properties not adversely affected by FEMA's undertaking, this will be the only public notice.

FEMA also intends to provide Hazard Mitigation Grant Program (HMGP) funding under Section 404 of the Stafford Act to the State of Iowa for the purposes of mitigating future disaster damages. Hazard mitigation projects may involve the construction of a new facility (e.g., retention pond, or debris dam), modification of an existing undamaged facility (e.g., improving waterway openings of bridges or culverts), and the relocation of facilities out of the floodplain. Subsequent Notices will provide more specific information as project proposals are developed.

Information about assistance projects may be obtained by submitting a written request to the Regional Director, DHS-FEMA Region VII; 9221 Ward Parkway, Suite 300; Kansas City, MO 64114-3372. The information may also be obtained by calling: (816) 283-7060, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Comments should be sent in writing to the Regional Director, at the above address, within 15 days of the date of publication of this notice.